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MONTANA

2003 Workers' Compensation
Annual Report

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JUDY MARTZ, GOVERNOR

August 03, 2004

Dear Friends and Colleagues,

The Department of Labor and Industry is pleased to present the *2003 Workers' Compensation Annual Report*. This report provides an overview of workers' compensation activity in Montana based on the data provided to us by a variety of participants.

Over the last couple of years I have taken advantage of this opportunity to commend the workers' compensation community for its increased willingness to work together and support the public policy objectives of the Workers' Compensation Act. These objectives set high standards:

- Wage-loss benefits intended to assist workers at a reasonable cost to employers;
- Returning injured workers to employment as quickly as possible;
- A primarily self-administering system with minimum reliance upon lawyers and the courts;
- Reasonably constant rates for employers;
- Benefits that are promptly provided to claimants; and
- Fair and equitable interpretation of the law, according to its terms and not liberally in favor of any party.

From the Department of Labor and Industry's perspective it seems clear that the workers' compensation community must maintain a dynamic balance of the forces bearing on the workers' compensation system. The costs and benefits to each participant, be they employer, injured worker, adjuster, insurer, medical or rehabilitation provider or attorney, must be maintained in a delicate balance so that each player can add their contribution and receive an appropriate return.

The respectful, on-going discussion of this dynamic, allows for constant adjustments to maintain that delicate balance.

Mandates by the 2003 Legislature to study the issue of Independent Contractors and find ways to simplify and improve the Act are good examples of these discussions. While the outcomes of these studies remain to be seen, the process is working.

I have great trust in this process and the respect shown by stakeholders for the values in our public policy that guide our work. Montanans can continue to depend on the Department of Labor and Industry to provide important information in the Annual Report.

Sincerely,

Wendy Keating
Commissioner
Department of Labor and Industry

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Summary

Listed below are highlights from the Montana 2003 Workers' Compensation Annual Report. This report contains information about Montana's workers' compensation system, including injury statistics and characteristics, benefits paid to claimants and payments made by insurers to others in the system, dispute resolution and miscellaneous regulatory programs and functions.

Claims Statistics.....17-24

There were 29,853 claims reported in Fiscal Year 2003 (FY03) compared with 32,237 reported in Fiscal Year 2002 (FY02). This is a decrease of 7.4% from FY02. The number of claims reported by the private carriers decreased while claims reported by Self-Insurers and the Montana State Fund remained about the same.

The service industry was responsible for 26.8% of all claims reported in FY03. Retail trade had the second largest percentage of claims at 13.5%.

The typical injured worker is male, employed in a service industry and suffered a strain or sprain to an upper extremity.

Benefits.....27-32

The total indemnity (wage loss) and medical benefits paid in FY03 were $200,537,680 compared to $179,621,821 in FY02, increasing $20,915,859 or 10.43%.

Medical benefit payments as reported to the Department of Labor and Industry increased for all insurers. Self-Insurers' payments increased by 6.31%, Montana State Fund increased 21.1% and private carriers increased 4.49% in FY03.

Attorneys represented injured workers in 49% of all claims settled in FY03.

Dispute Resolution.....35-40

The Claims Unit of the Employment Relations Division is responsible for the occupational disease evaluation process. They processed 190 occupational disease cases in FY03. This is an increase of 9% from FY02.

The Mediation Unit completes a case by holding a conference and issuing a written recommendation. During FY03, the unit processed 1,353 claims and 1,232 petitions, maintaining an 80% resolution of its cases for the past 5 years.

The Hearings Bureau received 19 new petitions for contested case hearings in FY03, an increase of 16% from FY02.

The Workers' Compensation Court received 229 petitions, dismissed 72 petitions and issued 145 decisions in FY03.

Regulatory Assessments 44

The administration of the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment on employers and insurers. The cost of the regulatory functions in FY03 was $4,512,300. Beginning in FY00, a new process was instituted and each insurer was assessed 3% of benefits paid.

Subsequent Injury Fund (SIF).....45

SIF payments in FY03 for all dates of injury were $236,116. There were 194 new SIF certifications during FY03 resulting in a total of 3,229 certified individuals in the state of Montana.

Uninsured Employers' Fund (UEF).....46-47

UEF provides benefits for injured employees when employers are without appropriate workers' compensation insurance. In FY03, UEF collections increased 24% from FY02, totaling $1,071,012.

The UEF unit received 73 new claims and injured workers received $662,301 in medical and indemnity benefits in FY03.

Occupational Safety & Health.....48-49

Mandatory inspections completed by the Occupational Safety & Health Bureau in the public sector totaled 239. They completed 275 onsite inspections in the private sector. In addition, 38 onsite inspections were performed in the coalmining industry and 84 in sand and gravel operations.

The Bureau conducted 120 formal training sessions in FY03, training 798 public and 1,702 private sector workers.

Independent Contractor Exemptions.....50-51

Independent contractors who do not wish to be covered under workers' compensation insurance may file for an exemption with the Department of Labor and Industry. New independent contractor exemption applications totaled 5,472 for FY03.

In Montana, there are a total of 29,628 independent contractors, 56% of whom are in the construction industry.

Professional Employer Organizations (PEOs).....52-53

To be licensed, a PEO must submit an application and proof of workers' compensation coverage. At the end of FY03 there were 24 PEOs licensed in Montana. These PEOs leased 2,331 employees to 274 client companies.

Montana's Workers' Compensation System

- *Declaration of Public Policy*
- *Insurance — Who's Covered, Who's Not*
- *Life of a Claim*
- *Montana Workers' Compensation System Administration*
- *Montana Workers' Compensation Market*
- *Significant Court Cases*
- *Montana Supreme Court Decisions on Workers' Compensation and Occupational Disease*

Declaration of Public Policy [1]

It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage supplement and medical benefits to a worker suffering from a work-related injury or disease. Wage-loss benefits are not intended to make an injured worker whole; they are intended to assist the injured worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

A worker's removal from the work force due to a work-related injury or disease has a negative impact on the injured worker, the injured worker's family, the employer, and the general public. Therefore, the main objective of the workers' compensation system is to return injured workers to work as soon as possible after suffering a work-related injury or disease.

Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering. Claimants should be able to obtain benefits speedily and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

Title 39, chapters 71 and 72, MCA Workers' Compensation and Occupational Disease Acts, must be construed according to their terms and not liberally in favor of any party.

The legislature's intent regarding stress claims, often referred to as "mental-mental claims" and "mental-physical claims", does not allow for compensation under Montana's Workers' Compensation and Occupational Disease Acts. The legislature recognizes that these claims are difficult to verify objectively and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. The legislature has the authority to define the limits of the workers' compensation and occupational disease systems.

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[1] §39-71-105, MCA

Insurance - Who's Covered, Who's Not

If you are an employer or an employee, the Workers' Compensation and Occupational Disease Acts apply to you. An employer who has an employee in service under any appointment or contract of hire, expressed or implied, oral or written, must elect to be bound by the provisions of compensation Plan 1 (self-insured), Plan 2 (private insurance companies) or Plan 3 (Montana State Fund).

Employment Exempted

The Workers' Compensation and Occupational Disease Acts may not apply to any of the following employments:

- Household and domestic employment
- Casual employment
- Dependent member of an employer's family for whom an exemption may be claimed by the employer under the federal Internal Revenue Code
- Sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company
- Real estate, securities or insurance salesperson paid solely by commission without a guarantee of minimum earnings
- A direct seller
- Employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States
- A person performing services in return for aid or sustenance only, except employment of volunteers
- Employment with a railroad engaged in interstate commerce, except railroad construction work
- An official, including a timer, referee, umpire or judge, at a school amateur athletic event
- A person performing services as a newspaper carrier or freelance correspondent
- Cosmetologist's services and barber's services
- A person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the reservation
- A jockey who is performing under a license issued by the Board of Horse Racing, from the time the jockey reports to the scale room prior to a race through the time weighed out and has acknowledged in writing that jockey is not covered while performing services as a jockey
- Trainer, assistant trainer, exercise person or pony person who is providing services under the Board of Horse Racing while on the grounds of a licensed race meet
- An employer's spouse
- A petroleum land professional
- An officer of a quasi-public or a private corporation or manager of a manager-managed limited liability company
- A person who is an officer or a manager of a ditch company
- Service performed by an ordained, commissioned or licensed minister of a church
- Independent Contractors
- Providers of companionship services or respite care if the person providing care is hired by a family member or legal guardian.

Life of a Claim

Accidents do happen and when a Montana worker files a workers' compensation claim, the life of that claim is dictated primarily by statute. Progress of a typical workers' compensation claim in Montana is determined by the following guidelines:

- Once the injury occurs, the injured worker or their authorized representative has 30 days from the date of injury to notify the employer (employer, managing agent or superintendent in charge of the work) or the insurer. [§39-71-603, MCA]

- The employer then has six days from date of notification of an injury to report the injury to the insurer or the Department of Labor and Industry. [§39-71-307, MCA, and ARM 24.29.801]

- The claimant or the claimant's representative has 12 months from the date of injury to file a claim. [§39-71-601(1), MCA] The claim filing time can be extended up to an additional 24 months if it can be proven that the worker was somehow prevented from filing the claim because of something the employer or the insurer said or did, or if the injury was latent or the worker lacked knowledge of disability. [§39-71-601(2), MCA]

- The signed claim form or First Report of Injury and Occupational Disease (FROI) (form ERD-991) can be submitted to the employer or sent directly to the insurer, the adjuster or the Department of Labor and Industry. [§39-71-601(1), MCA]

- The insurer/adjuster shall accept or deny a claim within 30 days of receipt of a signed claim for compensation by the claimant or the claimant's representative. If the claim is denied, the worker is notified in writing of the denial. [§39-71-606, MCA]

- If further investigation is needed before the insurer accepts liability and the 30 day limitation for a decision on compensability is due to expire, the insurer/adjuster may pay wage loss and/or medical benefits without such payment being an indication of admission of liability or waiver of any right of defense. [§§39-71-608 and 39-71-615, MCA]

- The first 4 days or 32 hours (whichever is less) of total wage loss is not compensable but a claimant may use sick leave during this time. A claimant cannot use sick leave and receive wage loss benefits at the same time. [§39-71-736, MCA]

- In addition to using an emergency room or urgent care center, the claimant has the right to select the first treating physician (within the treating physician definition). The insurer must then approve changes of treating physicians. The insurer has the right to deny payment for any unauthorized medical referrals and treatments. [§39-71-1101, MCA, and ARM 24.29.1510]

- The physician bills the insurer/adjuster directly. Payment is made according to a fee schedule. [§39-71-704(2) and (3), MCA] Once the insurer has accepted a claim, the medical provider must accept the fee scheduled reimbursement, as payment in full and the claimant is not responsible for any balance.

The claimant is responsible for payment of: (l) unauthorized treatment, (2) medical care not related to the injury, (3) medical services if treatment is not received for 60 months, (4) secondary medical services and palliative or maintenance care unless specifically covered and (5) medical procedures specifically excluded. [ARM 24.29.1401 and §39-71-704, MCA]

- Temporary total disability (TTD) benefits are based on 66⅔% of the claimant's average weekly gross wages, subject to a maximum of the state's average weekly wage, and are paid bi-weekly until the claimant returns to work or has reached maximum medical improvement (MMI). [§§39-71-701 and 39-71-740, MCA] If the claimant is classified as permanently totally disabled (PTD), benefits can continue until they reach retirement age. [§39-71-710, MCA]

- If prior to attaining maximum medical improvement and due to medical restrictions, the claimant returns to work at less than the wages received at the time of injury, they may be entitled to temporary partial disability (TPD) benefits. Temporary partial disability is limited to 26 weeks unless extended by the insurer/adjuster. [§39-71-712, MCA]

- If after reaching maximum medical improvement, the claimant has a residual impairment, greater than zero, the insurer/adjuster is required to pay out the permanent partial disability (PPD) liability bi-weekly, unless the claimant requests a lump sum payment. [§§39-71-703 and 39-71-741, MCA]

- Other permanent partial disability liability is based on age, education, loss of earning capacity and work capacity restrictions. These criteria are determined based on the specifics of each individual case. [§39-71-703, MCA]

- If the worker is precluded from returning to the job they held at the time of injury and suffers an actual wage loss or has an impairment of 15% or greater, they are eligible for rehabilitation services. The insurer/adjuster designates a rehabilitation provider and rehabilitation services are provided with the goal of returning the claimant to work as soon as possible. If a rehabilitation plan is established which indicates some type of retraining, the claimant may be eligible to receive monies for tuition, fees, books and other reasonable and necessary retraining expenses. The worker may also receive biweekly benefit payments based on their temporary total disability rate. [§39-71-1006, MCA] Financial assistance is also available for reasonable travel and relocation for training and job-related expenses, subject to a maximum amount of $4,000. [§39-71-1025, MCA]

- Medical benefits may remain available for at least 60 months (5 years) from the last date of service. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved maximum medical improvement. [§39-71-704(1)(e), MCA]

Montana Workers' Compensation System Administration

The Montana Department of Labor and Industry, Employment Relations Division (ERD) provides a wide variety of services and regulation related to workers' compensation and safety.

Workers' Compensation Regulation Bureau

The **Contractor Registration Unit** ensures construction businesses with employees register and comply with workers' compensation requirements. The law provides protection from liability for workers' compensation claims for contractors who use the service of other registered construction contractors.

The **Uninsured Employers Fund Unit** ensures employers and employees are protected under the Workers' Compensation and Occupational Disease Acts. The unit enforces coverage requirements for all employers, pays benefits to injured workers whose employers did not have workers' compensation coverage and manages the fund from which benefits are paid.

The **Subsequent Injury Fund Unit** certifies workers with permanent impairments that have a substantial obstacle to obtaining employment and administers the funds that are used to offset claim costs associated with subsequent injuries to these workers.

The **Medical Regulations Unit** administers a program that provides an effective and equitable method of health care cost containment. Medical fee schedules are established by the unit and utilized by insurers to reimburse medical providers.

The **Carrier Compliance Unit** monitors compliance of private workers' compensation carriers. The unit also licenses professional employer organizations and processes extraterritorial agreements (Plan 2).

The **Independent Contractor Central Unit** issues decisions on employment relationships for the Department of Revenue, Labor Standards, Unemployment Insurance and Workers' Compensation Compliance. The unit also issues Independent Contractor (IC) Exemptions.

The **Self-Insurance Unit** administers a program of employers who elect to be self-insured for workers' compensation (Plan 1).

Workers' Compensation Claims Assistance Bureau

The **Claims Unit** ensures compliance with the Workers' Compensation and Occupational Disease Acts relating to benefits and claims. The unit also regulates attorney fees, administers the occupational disease panel process and provides assistance to insurers, attorneys and injured workers.

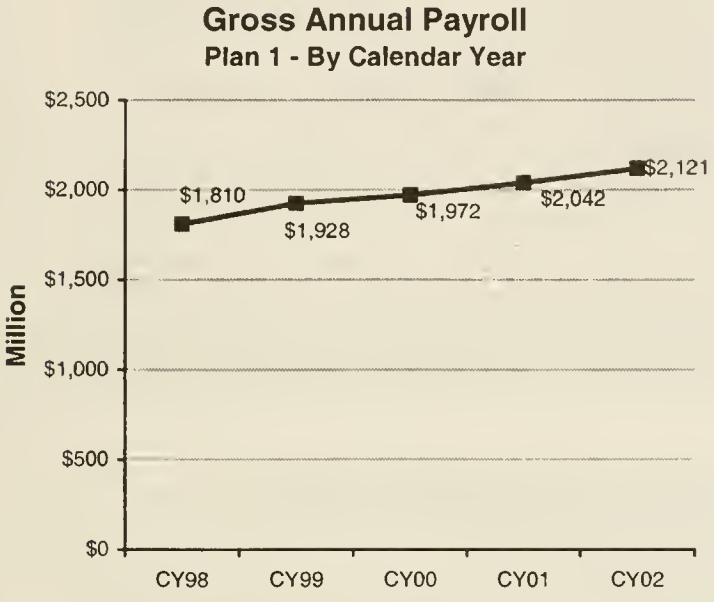
The **Data Management Unit** enters data on new claims, receives data on claims through Electronic Data Interchange (EDI), tracks policy coverage, maintains the workers' compensation database system and provides a comprehensive annual report on workers' compensation to the governor and the legislature.

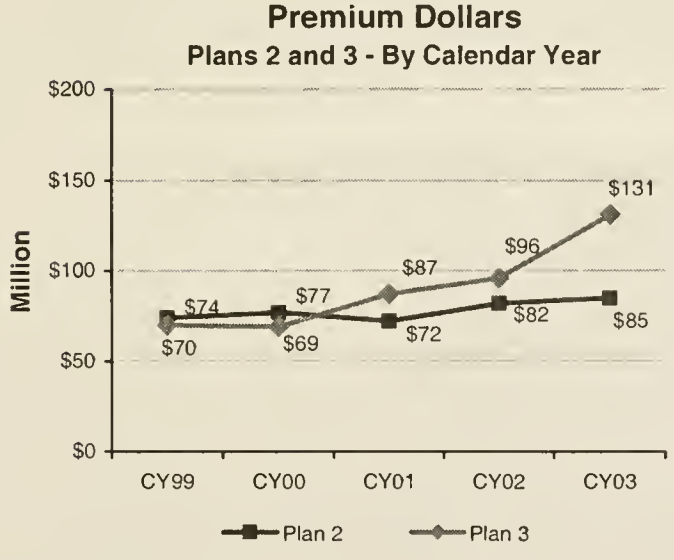
The **Mediation Unit** provides an alternative method of resolving workers' compensation benefit disputes before the dispute goes to the Workers' Compensation Court. This is a mandatory non-binding process.

Occupational Safety & Health Bureau

The **Occupational Safety & Health Bureau** conducts inspections of public employers, performs on-site consultations for private employers, and inspects coalmines and sand and gravel operations throughout the state. The Bureau provides safety and occupational health training for both public and private employers.

Montana Workers' Compensation Market





Montana employers have options for obtaining workers' compensation coverage for their employees.

Employers with sufficient cash reserves may qualify as self-insured (Plan 1), either individually or by joining with other employers in their industry to form a self-insured group. Montana currently has 41 individual self-insured employers, four private groups (127 employers) and five public groups (388 employers).

Employers may obtain coverage with private insurance companies (Plan 2) in the voluntary market. During calendar year 2003, there were 450 private insurance companies who were authorized to write workers' compensation insurance in Montana.

Employers can insure through Montana State Fund (Plan 3). As the insurer of last resort, the Montana State Fund assures all Montana employers can provide workers' compensation insurance for their employees.

The change in the Plan 1 and insurer's market share is reflected in the table below.

Market Share
By Plan and Calendar Year

Calendar Year	1999	2000	2001	2002	2003
Plan 1 – Payroll	$1,927,960,055	$1,971,770,980	$2,042,192,981	$2,121,728,801	*NA
Plan 2 – Premium	$74,142,380	$77,129,965	$72,431,388	$81,725,533	$85,081,186
Plan 3 – Premium	$70,422,976	$69,411,843	$86,813,640	$95,558,150	$131,804,047

Note: *Calendar year 2003 Gross Annual Payroll data was not available when this report was published.

Significant Court Cases

Case summaries are taken from the Workers' Compensation Court Website: http://wcc.dli.state.mt.us

MARTIN McLAUGHLIN vs. LIBERTY NORTHWEST INSURANCE CORPORATION

2003 MTWCC 69

Summary: In 2001 the employer provided its employees with an option of characterizing $5 an hour of the pay they were already receiving as travel reimbursement. Claimant elected to do so. He was thereafter injured. At that time he was receiving $14 an hour, $5 of which was characterized as travel reimbursement for going to and from work. Had claimant not made the earlier election he still would have received the $14 an hour and it would have all been characterized as wages. Nonetheless, the insurer refused to include the $5 an hour in computing the claimant's wages for benefit purposes.

Held: The insurer must include the full $14 an hour in computing the claimant's wages for purposes of benefits. Travel pay can be excluded from wages only if it is in fact travel pay and it meets the requirements of ARM 24.29.720. The $5 at issue in this case did not meet the requirements since it was in lieu of and replaced claimant's customary wages. Moreover, the amount bore no direct or indirect relationship to the claimant's actual expenses for traveling to and from work and was not computed in accordance to any of the methods permitted under ARM 24.29.720.

WILLIAM HARDGROVE vs. TRANSPORTATION INSURANCE COMPANY

2003 MTWCC 57

Summary: Claimant and insurer jointly petitioned the Court for a determination as to whether the claimant's asbestosis claim is time-barred. He ceased working for W.R. Grace in 1984. At the time of his retirement section, 39-72-403(3), MCA, provided that any claim for occupational disease benefits must be brought within three years after the claimant-ceased employment. The provision was repealed in 1985. In 1998 claimant was diagnosed with asbestosis resulting from his work for W.R. Grace.

Held: The claim is time-barred. The 1985 repeal of section 39-72-403(3), MCA (1983), was expressly made applicable to exposures occurring after the 1985 repeal. The latent injury doctrine is inapplicable since subsection (3) is a statute of repose and in any event expressly overrides the doctrine. Finally, the subsection is not unconstitutional either under the Full Redress Clause or the Equal Protection Clause. **Note: This case has been appealed to the Montana Supreme Court. That decision is pending.**

DALE REESOR vs. MONTANA STATE FUND

2003 MTWCC 51

Summary: Claimant was receiving social security retirement benefits at the time he suffered an industrial accident. He received an impairment award but was denied other permanent partial disability (PPD) benefits pursuant to section 39-71-710, MCA (1999), which provides that persons who are receiving social security benefits or are eligible for full social security retirement benefits are ineligible for PPD benefits other than an impairment award. Claimant challenges the constitutionality of section 39-71-710, MCA, on equal protection grounds and seeks full PPD benefits.

Held: Section 39-71-710, MCA, is constitutional. Receipt of retirement benefits or eligibility for such benefits is a rough yardstick for determining whether there will be future wage loss. Such rough measures do not violate equal protection guarantees. **Note: This case has been appealed to the Montana Supreme Court. That decision is pending.**

LANDIS BJORGEN vs. MELOTZ TRUCKING, INCORPORATED & UNINSURED EMPLOYERS' FUND

2003 MTWCC 32

Summary: Claimant alleged that he suffered an industrial injury while working for an uninsured employer. The Uninsured Employers' Fund (UEF) denied liability based on an independent contractor exemption issued to the claimant and also questioned whether claimant had injured himself at work.

Held: The claimant injured himself at work. Claimant was hired as an employee and there was no reliance on his exemption. Moreover, the job for which he was hired was outside the scope of the exemption. He is therefore entitled to benefits from the UEF.

ROBERT HERNANDEZ vs. ACE USA

2003 MTWCC 31

Summary: Claimant petitioned for a lump sum of his future permanent total disability benefits. The insurer's Montana claims adjuster recommended settlement but was overruled by the employer, i.e., by the insurer's insured. Claimant also seeks a 15% impairment award pursuant to *Rausch v. State Compensation Ins. Fund,* 2002 MT 203, 311 Mont. 210, 54 P.3d 25.

Held: Section 39-71-107(3), MCA (2001), requires insurers to designate a resident Montana claims adjuster with final settlement authority. Section 39-71-2203(3), MCA (2001). provides that an insurer is directly liable to claimants. ACE violated both sections by giving settlement authority to its insured employer. Since the Montana adjuster would have approved the lump-sum request and, more probably than not, the Department of Labor and Industry would have approved the settlement, the claimant is entitled to the $75,000 lump-sum conversion recommended by the Montana adjuster. He is also entitled to a $10,080 impairment award pursuant to *Rausch v. State Compensation Ins. Fund,* 2002 MT 203, 311 Mont. 210, 54 P.3d 25.

ANN BUSTELL vs. AIG CLAIMS SERVICE, INCORPORATED/ THE INSURANCE COMPANY OF PENNSYLVANIA

2003 MTWCC 11

Summary: Dispute over amount of reimbursement for twenty-four hour domiciliary care furnished a quadriplegic petitioner. Insurer contends that reimbursement is limited to the daily Medicaid rate for nursing homes. The petitioner also seeks reimbursement for home improvements, a handicap van, and a voice-activated computer.

Held: The limitation in section 39-71-1107(3), MCA (1999), for reimbursement of domiciliary care on its face applies only to domiciliary care provided by family members. Petitioner's request for reimbursement for home improvements, a handicap van, and a computer, does not fall under the primary medical services provision she cites. § 39-71-704(a), MCA (1999).

LUCY HERNANDEZ vs. NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH

2003 MTWCC 5

Summary: Ruling on insurer's duty to claimant.

Held: Workers' compensation insurers are directly liable to claimants and have direct duty to claimants when adjusting claims. Insurers cannot delegate their duties to insured employers.

JAPETH EDMUNDS vs. LIBERTY NORTHWEST INSURANCE

2004 MTWCC 11

Summary: An employee (claimant herein) of a subcontractor was injured on the job. The subcontractor was uninsured and the claimant therefore invoked section 39-71-405, MCA (1995), and sought benefits from the insurer of the general contractor. The insurer denied liability based upon section 39-9-207, MCA (1997), which exempts persons employing registered contractors from workers' compensation liability. At the time of the claimant's injury, the subcontractor had a certificate as a registered contractor. The certificate, however, on its face stated that the contractor registration was invalid if the subcontractor employed non-exempt workers.

Held: Section 39-9-207, MCA, is inapplicable since there was no valid contractor registration covering the subcontractor in the event he hired non-exempt employees. Section 39-71-405, MCA, is therefore applicable. Under that section the general contractor's insurer is liable for the claimant's industrial injuries.

RAM MONTANA, INCORPORATED vs. INDEPENDENT CONTRACTOR CENTRAL UNIT/ UNINSURED EMPLOYERS' FUND

2004 MTWCC 13

Summary: RAM Montana, Incorporated, a Nevada corporation with offices in Montana and extensive contacts with Montana, was in the business of doing contract remodeling jobs for Payless Shoe stores throughout the United States. The Independent Contractor Central Unit determined that its workers, including crew leaders, were employees subject to the Montana Workers' Compensation Act. Since RAM was uninsured in Montana (and elsewhere) from March 18, 1995 through December 31, 1997, the Uninsured Employers' Fund imposed penalties on RAM pursuant to section 39-71-504, MCA. RAM appeals, alleging that its workers were not subject to Montana workers' compensation requirements because their work was performed outside of Montana and that, in any event, its workers were independent contractors or employed by independent contractors.

Held: RAM's crew leaders and workers were never independent contractors. Workers based in Montana, who mustered out of Montana and traveled to and from Montana for temporary jobs in other states, were subject to Montana workers' compensation requirements. However, crew leaders and workers who did not reside or work on jobs in Montana were not subject to Montana workers' compensation requirements and should have been excluded from any penalty determination.

Montana Supreme Court Decisions on Workers' Compensation and Occupational Disease

These decisions can be found at the State Law Library Website: www.lawlibrary.state.mt.us

EULA MAE HIETT vs. MISSOULA COUNTY PUBLIC SCHOOLS

2003 MT 213

In deciding this appeal, the Supreme Court focused on the question of 'how or at what point" an injured worker 'achieves' medical stability. The Court found the phrase "'achieving' medical stability and 'achieved' medical stability as used in §§ 39-71-116(25) and 39-71-704(1)(f), MCA (1995), respectively, to mean the *sustainment* of medical stability. Given this interpretation, a claimant is entitled to such "primary medical services" as are necessary to permit him or her to *sustain* medical stability."

MATHEWS vs. LIBERTY NORTHWEST INSURANCE CORPORATION

2003 MT 116

In this companion case to Wild vs. Montana State Fund (Supreme Court no. 2003 MT 115) The Court held that § 39-71-401(3) MCA, does not preclude a factual inquiry into the existence of an employer/employee relationship if the worker holds an independent contractor exemption. The Court also ruled that § 401(3) in conjunction with § 39-71-120, MCA, requires the employer to make "an initial good faith inquiry of the worker to determine that he or she does, in fact, meet the control and independently established business tests before the employer employs the worker as an IC and if the employer determines the worker is an IC, to thereafter treat the worker as an IC and not as an employee..."

RICHARD WIARD vs. LIBERTY NORTHWEST INSURANCE CORPORATION

2003 MT 295

In this case, the Supreme Court affirmed the Workers' Compensation Court's ruling that the injured workers' claim for medical benefits is barred under section 39-71-704 (1991), which provides that medical benefits terminate if not used for 60 or more months.

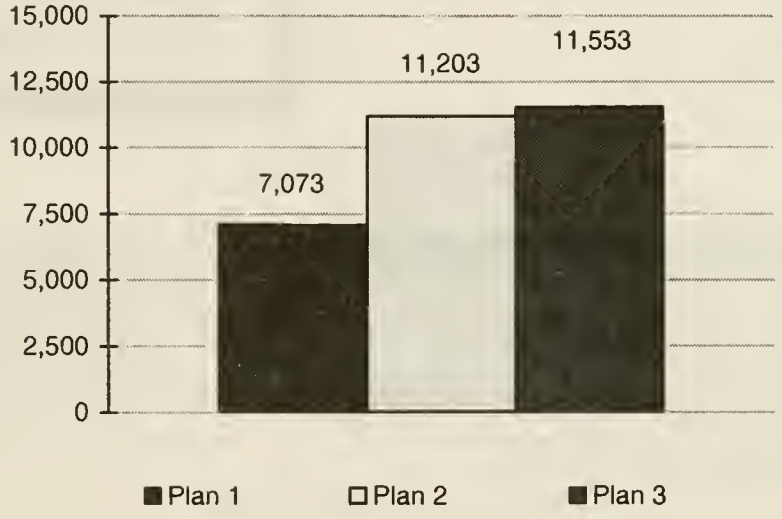
Claims Statistics

- *Comparison of Claims by Plan Type*
- *Injured Worker Characteristics*
- *Insurer Denial of Claims*

Comparison of Claims by Plan Type

This section provides the most current statistical summary available on the status of Montana's workers' compensation system through FY03. The information is based on First Reports of Injury and Occupational Disease received by the department. Both medical only and indemnity claims are included.

Reported Claims[1] - FY03
By Plan Type[2]



Notes:
[1]Total claim numbers continually change due to reporting.
[2]Plan types: Plan 1 – Self Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund.

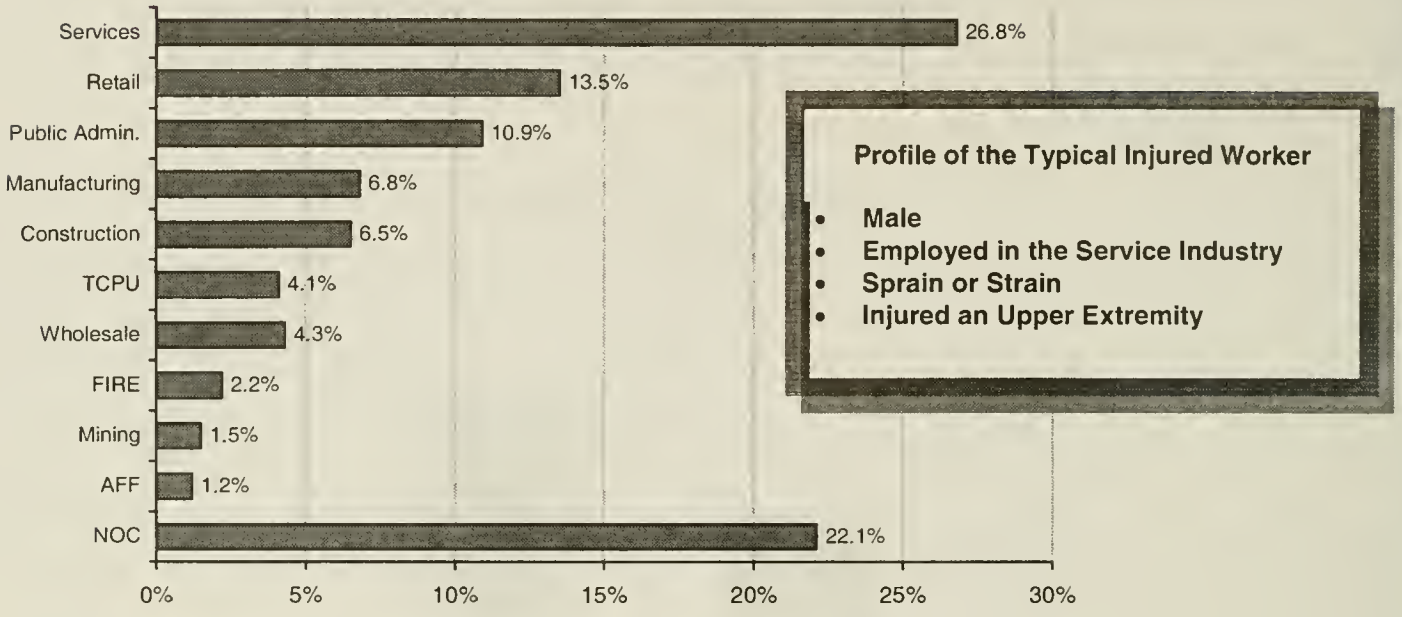
Reported Claims[1]
By Plan Type[2] and Fiscal Year

	FY99		FY00		FY01		FY02		FY03	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	6,867	21.6%	6,598	19.8%	6,985	20.2%	7,133	22.1%	7,073	23.7%
Plan 2	14,038	44.2%	15,720	47.2%	16,254	47.0%	13,534	42.0%	11,203	37.5%
Plan 3	10,759	33.9%	10,885	32.7%	11,246	32.5%	11,517	35.7%	11,553	38.7%
NOC[3]	81	0.3%	77	0.2%	88	0.3%	53	0.2%	24	0.1%
Total	***31,745***	***100%***	***33,280***	***100%***	***34,573***	***100%***	***32,237***	***100%***	***29,853***	***100%***

Notes:
[1]Total claim numbers continually change.
[2]Plan types: Plan 1 – Self Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund.
[3]NOC means Not Otherwise Classified.

Injured Worker Characteristics

Reported Claims - FY03
By Standard Industrial Classification Major Groups[1]



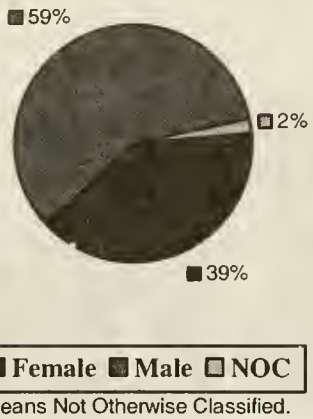
Notes:
[1]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*
TCPU means Transportation, Communication and Public Utilities.
FIRE means Finance, Insurance and Real Estate.
AFF means Agriculture, Forestry and Fishing.
NOC means Not Otherwise Classified.

Reported Claims[1]
By Standard Industrial Classification Major Groups[2] and Fiscal Year

Standard Industrial Classification	FY99		FY00		FY01		FY02		FY03	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Services	8,092	25.5%	8,207	24.7%	8,788	25.4%	7,875	24.4%	7,996	26.8%
Retail	4,484	14.1%	4,813	14.5%	4,929	14.3%	4,599	14.3%	4,036	13.5%
Public Administration	3,183	10.0%	3,184	9.6%	3,108	9.0%	3,569	11.1%	3,268	10.9%
Manufacturing	2,799	8.8%	2,753	8.3%	2,674	7.7%	2,374	7.4%	2,031	6.8%
Construction	2,386	7.5%	2,479	7.4%	2,473	7.2%	2,193	6.8%	1,926	6.5%
Transportation, Communication & Public Utilities	1,482	4.7%	1,610	4.8%	1,594	4.6%	1,373	4.3%	1,229	4.1%
Wholesale	1,433	4.5%	1,651	5.0%	1,545	4.5%	1,381	4.3%	1,294	4.3%
Finance, Insurance & Real Estate	483	1.5%	493	1.5%	944	2.7%	570	1.8%	657	2.2%
Mining	718	2.3%	614	1.8%	595	1.7%	537	1.7%	440	1.5%
Agriculture, Forestry & Fishing	496	1.6%	479	1.4%	414	1.2%	347	1.1%	370	1.2%
All Other Specific Claims, NOC[3]	6,189	19.5%	6,997	21.0%	7,509	21.7%	7,419	23.0%	6,606	22.1%
Total[4]	*31,745*	*100%*	*33,280*	*100%*	*34,573*	*100%*	*32,237*	*100%*	*29,853*	*100%*

Notes:
[1]Some counts may vary slightly from previous reports due to corrections from insurers.
[2]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*
[3]NOC means Not Otherwise Classified.
[4]Columns may not sum 100% due to rounding.

Reported Claims - FY03
By Gender



Note: NOC means Not Otherwise Classified.

Reported Claims
By Gender and Fiscal Year

	FY99		FY00		FY01		FY02		FY03	
Gender	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Female	11,748	37.0%	12,164	36.6%	13,323	38.5%	12,488	38.7%	11,759	39.4%
Male	19,896	62.7%	20,893	62.8%	21,076	61.0%	19,630	60.9%	17,560	58.8%
All Other Claims, NOC	101	0.3%	223	0.7%	174	0.5%	119	0.4%	534	1.8%
Total	***31,745***	***100%***	***33,280***	***100%***	***34,573***	***100%***	***32,237***	***100%***	***29,853***	***100%***

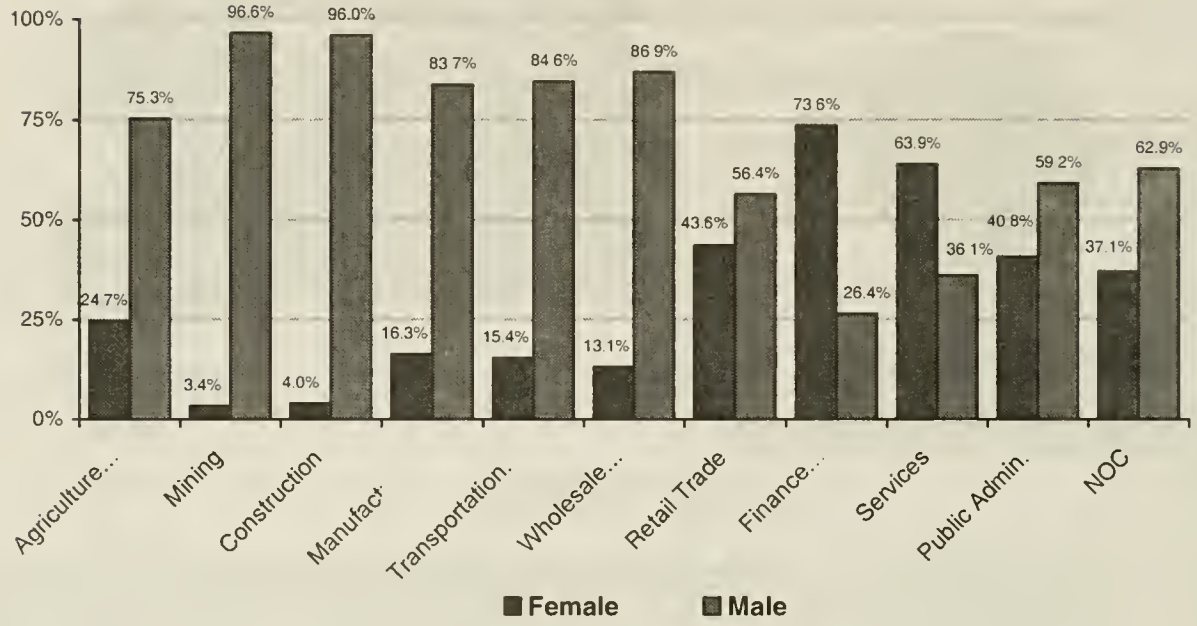
Note: NOC means Not Otherwise Classified.

Reported Claims - FY03
By Standard Industrial Classification Major Groups[1] and Gender

	Female		Male		Totals	
Standard Industrial Classification	Count	Percent	Count	Percent	Count	Percent
Agriculture, Forestry & Fishing	91	0.3%	277	0.9%	368	1.2%
Mining	15	0.1%	425	1.4%	440	1.5%
Construction	77	0.3%	1,840	6.2%	1,917	6.4%
Manufacturing	325	1.1%	1,673	5.6%	1,998	6.7%
Transportation, Communication & Public Utilities	188	0.6%	1,031	3.5%	1,219	4.1%
Wholesale Trade	167	0.6%	1,104	3.7%	1,271	4.3%
Retail Trade	1,712	5.7%	2,215	7.4%	3,927	13.2%
Finance, Insurance & Real Estate	441	1.5%	158	0.5%	599	2.0%
Services	5,008	16.8%	2,824	9.5%	7,832	26.2%
Public Administration	1,333	4.5%	1,932	6.5%	3,265	10.9%
NOC[2] Gender codes	0	0%	0	0%	534	1.8%
NOC[2] SIC codes	2,402	8.0%	4,081	13.7%	6,483	21.7%
Total[3]	***11,759***	***39.4%***	***17,560***	***58.8%***	***29,853***	***100%***

Notes:
[1]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987*.
[2]NOC means Not Otherwise Classified. 534 claims had nonclassified Gender codes.
[3]Totals may not sum exactly due to rounding.

Reported Claims - FY03
By Standard Industrial Classification Major Groups[1] and Gender



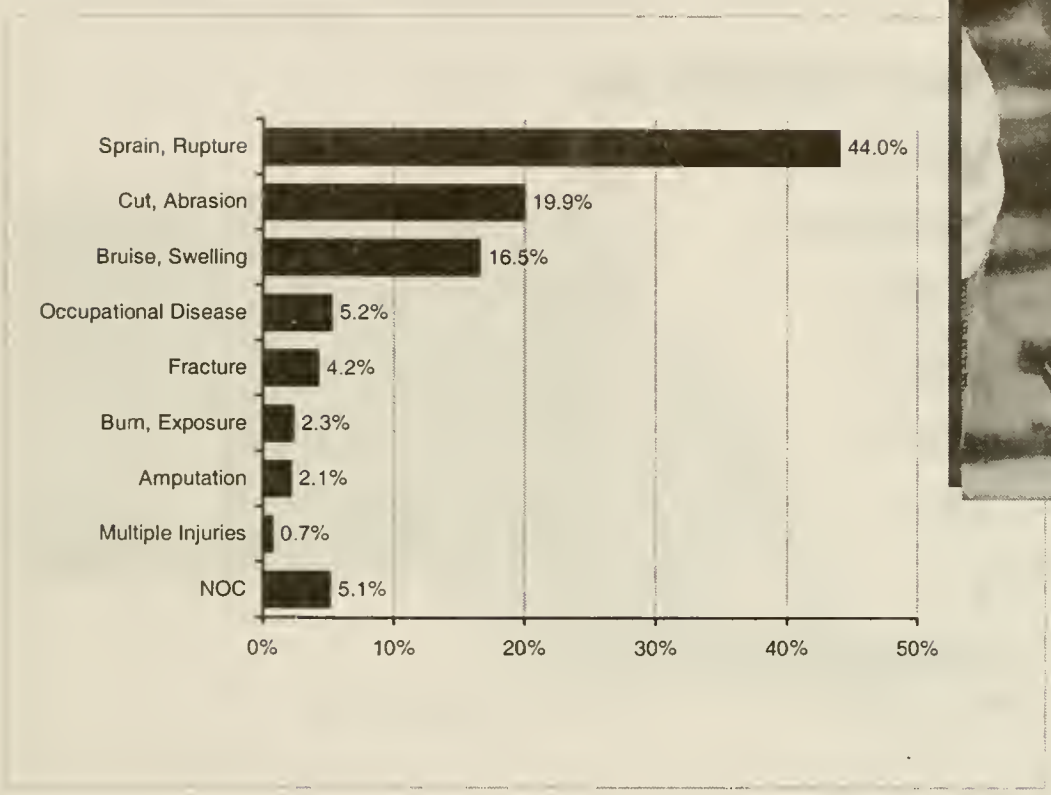
Note: NOC means Not Otherwise Classified.

Reported Claims - FY03
By Standard Industrial Classification Major Groups[1] and Gender

Standard Industrial Classification	Female		Male		Totals	
	Count	Percent	Count	Percent	Count	Percent
Agriculture, Forestry & Fishing	91	24.7%	277	75.3%	368	100%
Mining	15	3.4%	425	96.6%	440	100%
Construction	77	4.0%	1,840	96.0%	1,917	100%
Manufacturing	325	16.3%	1,673	83.7%	1,998	100%
Transportation, Communication and Public Utilities	188	15.4%	1,031	84.6%	1,219	100%
Wholesale Trade	167	13.1%	1,104	86.9%	1,271	100%
Retail Trade	1,712	43.6%	2,215	56.4%	3,927	100%
Finance, Insurance & Real Estate	441	73.6%	158	26.4%	599	100%
Services	5,008	63.9%	2,824	36.1%	7,832	100%
Public Administration	1,333	40.8%	1,932	59.2%	3,265	100%
NOC[2] SIC codes	2,402	37.1%	4,081	62.9%	6,483	100%
NOC[2] Gender codes	0	0%	0	0%	534	100%
Total	***11,759***	***40.1%***	***17,560***	***59.9%***	***29,853***	***100%***

Notes:
[1]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*
[2]NOC means Not Otherwise Classified. 534 claims had nonclassified gender codes.

Reported Claims - FY03
By Nature of Injury



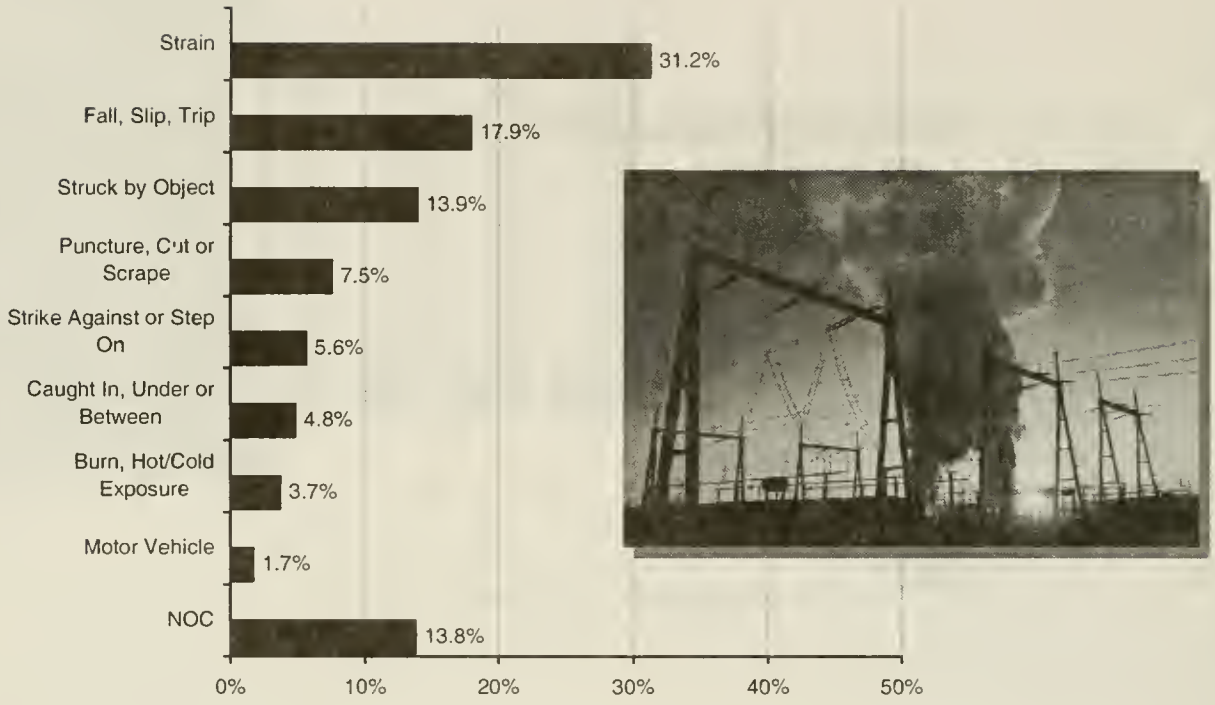
Note: NOC means Not Otherwise Classified.

Reported Claims
By Nature of Injury[1] and Fiscal Year

	FY99		FY00		FY01		FY02		FY03	
Nature of Injury	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Sprain, Rupture	12,207	38.5%	13,439	40.4%	14,143	40.9%	13,784	42.8%	13,143	44.0%
Cut, Abrasion	6,567	20.7%	6,871	20.6%	7,009	20.3%	6,545	20.3%	5,948	19.9%
Bruise, Swelling	4,338	13.7%	4,863	14.6%	5,561	16.1%	4,898	15.2%	4,926	16.5%
Occupational Disease	1,870	5.9%	1,774	5.3%	1,927	5.6%	1,749	5.4%	1,538	5.2%
Fracture	1,464	4.6%	1,538	4.6%	1,468	4.2%	1,368	4.2%	1,251	4.2%
Burn, Exposure	872	2.7%	901	2.7%	891	2.6%	900	2.8%	698	2.3%
Amputation	752	2.4%	659	2.0%	642	1.9%	610	1.9%	624	2.1%
Multiple Injuries	797	2.5%	549	1.6%	355	1.0%	252	0.8%	220	0.7%
All Other Claims, NOC[2]	2,878	9.1%	2,686	8.0%	2,577	7.4%	2,131	6.6%	1,505	5.1%
Total[3]	***31,745***	***100%***	***33,280***	***100%***	***34,573***	***100%***	***32,237***	***100%***	***29,853***	***100%***

Notes:
[1]Source: International Association of Industrial Accident Boards and Commissions (IAIABC) – Electronic Data Interchange (EDI) definitions. See "Definitions", page 58.
[2]NOC means Not Otherwise Classified.
[3]Columns may not sum to 100% due to rounding.

Reported Claims - FY03
By Cause of Injury



Note: NOC means Not Otherwise Classified

Reported Claims
By Cause of Injury[1] and Fiscal Year

	FY99		FY00		FY01		FY02		FY03	
Cause of Injury	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Strain	9,593	30.2%	9,897	29.7%	10,239	29.6%	9,841	30.5%	9,305	31.2%
Fall, Slip, Trip	5,428	17.1%	5,542	16.7%	6,651	19.2%	5,697	17.7%	5,351	17.9%
Struck by Object	4,397	13.9%	4,534	13.6%	4,482	13.0%	4,395	13.6%	4,136	13.9%
Puncture, Cut, Scrape	2,596	8.2%	2,820	8.5%	2,957	8.6%	2,666	8.3%	2,225	7.5%
Strike Against or Step On	1,858	5.9%	2,080	6.3%	1,965	5.7%	1,891	5.9%	1,663	5.6%
Caught In, Under or Between	1,293	4.1%	1,409	4.2%	1,470	4.3%	1,350	4.2%	1,428	4.8%
Burn, Hot/Cold Exposure	1,470	4.6%	1,424	4.3%	1,320	3.8%	1,365	4.2%	1,109	3.7%
Motor Vehicle	610	1.9%	597	1.8%	643	1.9%	563	1.7%	519	1.7%
All Other Claims, NOC[2]	4,500	14.2%	4,977	14.9%	4,846	14.0%	4,469	13.8%	4,117	13.8%
Total[3]	***31,745***	***100%***	***33,280***	***100%***	***34,573***	***100%***	***32,237***	***100%***	***29,853***	***100%***

Notes:
[1]Source: International Association of Industrial Accident Boards and Commissions (IAIABC) – Electronic Data Interchange (EDI) definitions. See "Definitions", page 57.
[2]NOC means Not Otherwise Classified.
[3]Columns may not sum to 100% due to rounding.

Reported Claims - FY03
By Part of Body

Note: NOC means Not Otherwise Classified.

Reported Claims
By Part of Body[1] and Fiscal Year

	FY99		FY00		FY01		FY02		FY03	
Part of Body	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Upper Extremitites	9,737	30.7%	10,365	31.1%	10,907	31.5%	10,229	31.7%	9,392	31.5%
Back	6,374	20.1%	6,564	19.7%	6,753	19.5%	6,319	19.6%	5,940	19.9%
Head	3,598	11.3%	3,724	11.2%	3,771	10.9%	3,659	11.4%	3,329	11.2%
Lower Extremities	3,352	10.6%	3,471	10.4%	3,591	10.4%	3,412	10.6%	3,197	10.7%
Multiple Parts	2,262	7.1%	2,487	7.5%	2,506	7.2%	1,836	5.7%	1,581	5.3%
Knees	2,082	6.6%	2,176	6.5%	2,344	6.8%	2,238	6.9%	2,222	7.4%
Trunk	2,034	6.4%	1,949	5.9%	1,991	5.8%	2,005	6.2%	1,818	6.1%
Wrist	1,525	4.8%	1,659	5.0%	1,682	4.9%	1,622	5.0%	1,443	4.8%
Neck	611	1.9%	704	2.1%	727	2.1%	723	2.2%	733	2.5%
All Other Claims, NOC[2]	170	0.5%	181	0.6%	301	0.9%	194	0.6%	198	0.7%
Total[3]	***31,745***	***100%***	***33,280***	***100%***	***34,573***	***100%***	***32,237***	***100%***	***29,853***	***100%***

Notes:
[1]Source: International Association of Industrial Accident Boards and Commissions (IAIABC) – Electronic Data Interchange (EDI) definitions. See "Definitions", page 59.
[2]NOC means Not Otherwise Classified.
[3]Columns may not sum to 100% due to rounding.

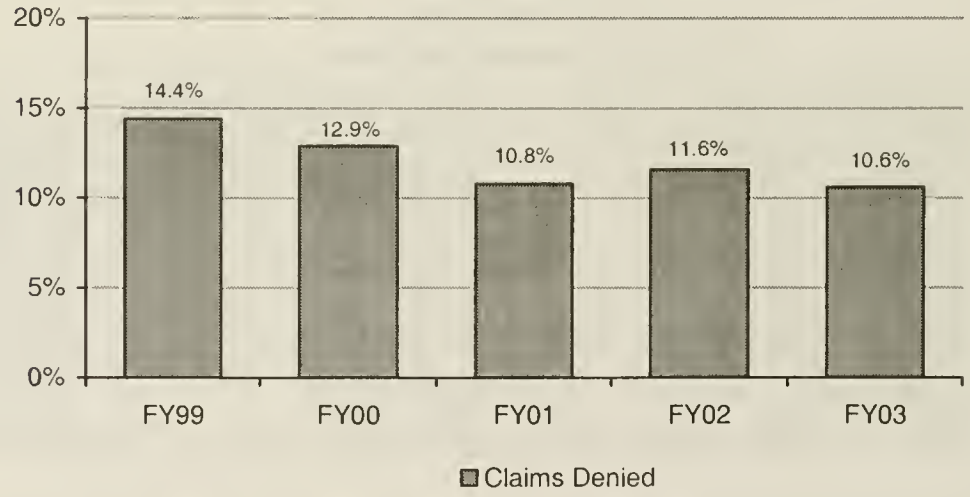
Insurer Denial of Claims

Insurer Denial of Claims[1]
By Reason of Denial and Fiscal Year

Reason for Claim Denial		FY99	FY00	FY01	FY02	FY03
Late Claim Filing	Injury	50	72	45	49	48
	Occupational Disease	1	1	1	2	1
Insufficient Information	Incomplete or missing information necessary to accept liability	9	68	181	113	47
Coverage Issue	Corporate officer rejected	17	9	1	0	0
	Elects no coverage	0	6	6	2	3
	Independent Contractor issue	0	3	6	2	1
	Question which insurer liable	29	27	16	15	9
	No coverage	56	40	30	14	6
Other	Other	407	338	254	285	193
No Employer Notice	No 30-day notice to employer or insurer	213	180	149	135	100
Not in Course & Scope	Not in course and scope of employment	261	260	229	212	208
No Objective Medical	No objective medical findings to substantiate injury	2,380	2,349	2,039	2,483	2,338
Definition of Injury	Heart attack - not caused by accident	18	13	6	13	10
	Does not meet definition of injury	592	478	391	393	426
	Does not meet definition of Occupational Disease	57	66	52	59	47
	Stress - not compensable	30	24	31	27	23

Note:
[1]The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not available.

Insurer Denial of Claims[1]
By Percent and Fiscal Year



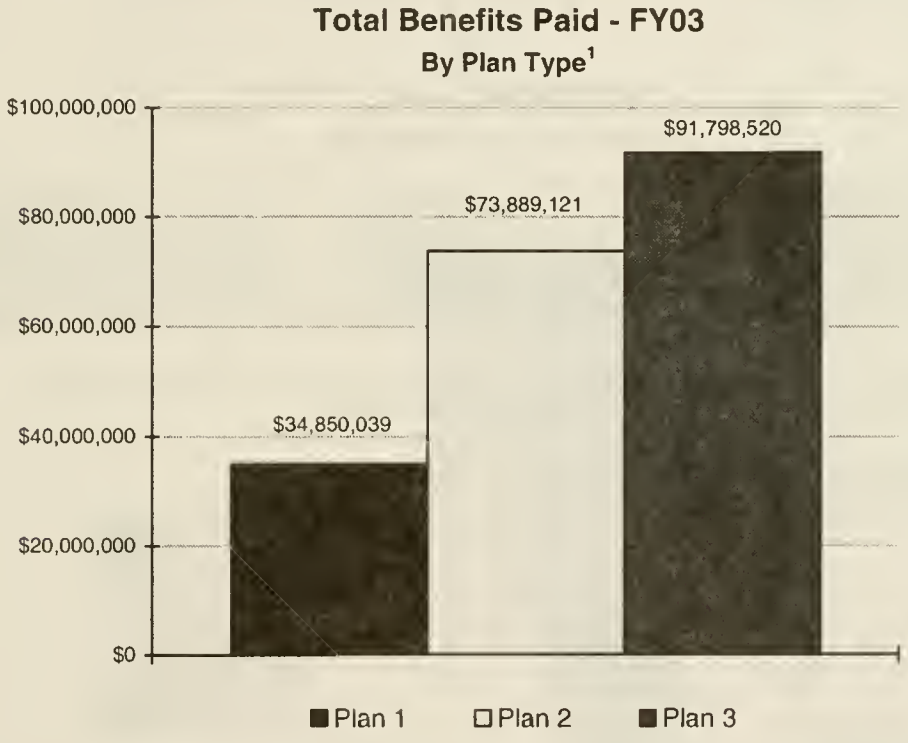
Note:
[1]The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

Benefits

- *Total Benefits*
- *Settlement Dollars*
- *Settlement Attorney Fees*
- *Rehabilitation*

Total Benefits

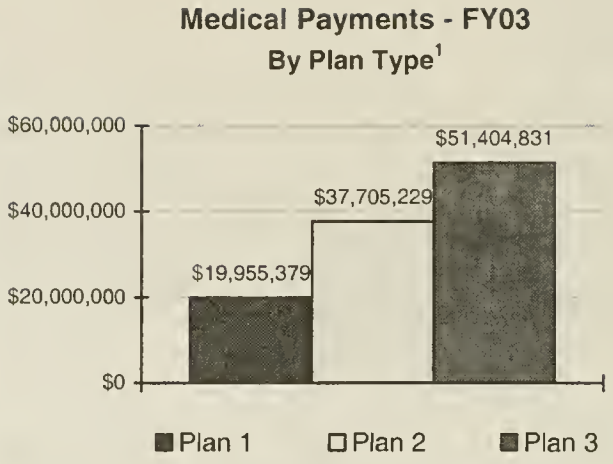
"Indemnity claim" means a workers' compensation or occupational disease claim where compensation benefits in addition to medical benefits are being paid or are likely to be paid in the future. Totals represent indemnity benefits paid to the injured worker and medical benefits paid to hospitals, doctors and other health care providers as reported to the Department of Labor and Industry (DLI). Benefit totals have been updated since the publication of previous annual reports due to the receipt of amended expenditure reports.



Total Benefits Paid
By Plan Type[1] and Fiscal Year

Plan Type[1]	FY99	FY00	FY01	FY02	FY03
Plan 1	$24,701,197	$24,618,959	$29,141,324	$33,902,769	$34,850,039
Plan 2	$47,875,550	$63,425,703	$79,341,672	$69,983,989	$73,889,121
Plan 3	$66,341,498	$66,723,654	$70,893,570	$75,735,063	$91,798,520
Total[2]	***$138,918,245***	***$154,768,316***	***$179,376,566***	***$179,621,821***	***$200,537,680***

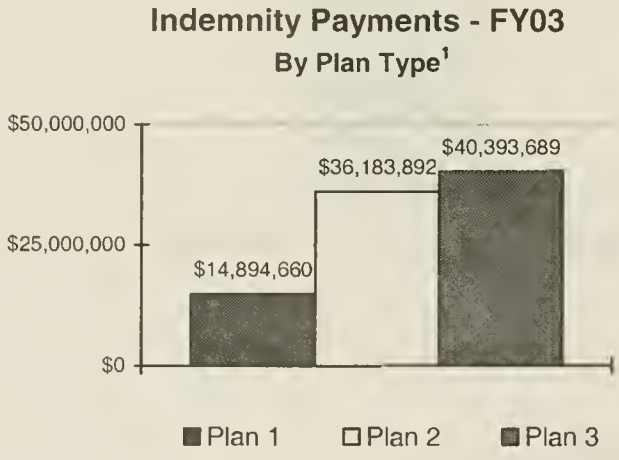
Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund
[2]Total benefits represent indemnity and medical, filed with DLI as of 04-01-2004.



Medical Payments
By Plan Type[1] and Fiscal Year

Plan Type[1]	FY99	FY00	FY01	FY02	FY03
Plan 1	$13,346,592	$13,469,679	$15,791,261	$18,696,427	$19,955,379
Plan 2	$22,792,502	$30,557,976	$41,626,961	$36,012,896	$37,705,229
Plan 3	$31,439,590	$34,223,740	$35,656,851	$40,571,820	$51,404,831
Total[2]	***$67,578,684***	***$78,251,395***	***$93,075,073***	***$95,281,143***	***$109,065,439***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund
[2]Total benefits represent medical payments, filed with DLI as of 04-01-2004.



Indemnity Payments
By Plan Type[1] and Fiscal Year

Plan Type[1]	FY99	FY00	FY01	FY02	FY03
Plan 1	$11,354,605	$11,149,280	$13,350,062	$15,206,342	$14,894,660
Plan 2	$25,083,048	$32,867,727	$37,714,712	$33,971,093	$36,183,892
Plan 3	$34,901,908	$32,499,914	$35,236,719	$35,163,243	$40,393,689
Total	***$71,339,561***	***$76,516,921***	***$86,301,493***	***$84,340,678***	***$91,472,241***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund
[2]Total benefits represent indemnity payments, filed with DLI as of 4-01-2004.

Benefit Report Data on Closed Claims

The Department of Labor and Industry is replacing the Benefit Report Data on Closed Claims with new presentations of various benefit costs by accident year and maturity intervals of claims. The department is working with Insurance Services Office, Inc. (ISO) to conduct the new analysis of benefits. The new analysis and presentation was not completed in time for this publication. The report will be released in the fall of 2004.

If you have questions, feel free to contact:

Diana Ferriter, Bureau Chief
Department of Labor and Industry
Employment Relations Division
Workers' Compensation Claims Assistance
PO Box 8011
Helena MT 59601-8011

Phone: (406) 444-1574
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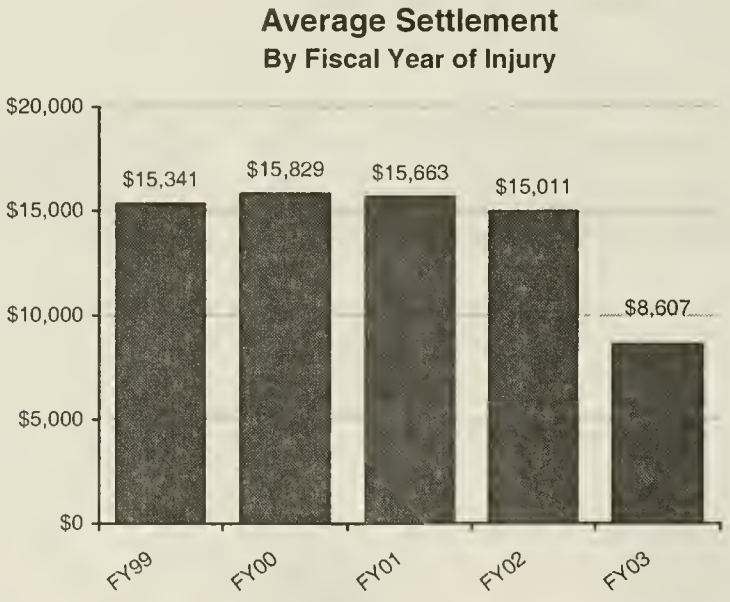
Email: diferriter@state.mt.us

Settlement Dollars

Settlements are lump sum payments of the claimant's workers' compensation benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. If the claimant has more than one claim, a settlement may settle more than one of those claims. Settlements are subject to approval by the Department of Labor and Industry.

This graph displays average settlement amounts by fiscal year of injury for claims settled between 07-01-1998 and 06-30-2003. This information includes both injury and occupational disease settlements.



Settlement Amounts For Claims Settled[1]
By Plan Type[2] and Fiscal Year of Injury

	FY99		FY00		FY01		FY02		FY03	
Plan Type[2]	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	$2,416,409	148	$2,339,884	152	$1,891,593	122	$991,050	85	$209,520	33
Plan 2	$6,575,021	467	$6,776,351	442	$5,081,625	360	$3,366,830	220	$405,289	48
Plan 3	$4,478,094	263	$4,101,396	241	$4,022,053	220	$2,502,334	152	$418,001	39
Totals	***$13,469,524***	***878***	***$13,217,631***	***835***	***$10,995,271***	***702***	***$6,860,214***	***457***	***$1,032,810***	***120***

Notes:
[1]This chart does not include settlements ordered by the Workers' Compensation Court.
[2]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.

Settlement Attorney Fees

The Employment Relations Division collects workers' compensation legal expense data on attorney fees claimed for approved settlements. The data collected is used to ensure attorney fees do not exceed the maximum amounts allowed by statute. Legal costs accumulated in defense of a claim, pro-bono work, court awarded fees, fees taken from bi-weekly compensation payments prior to settlement, fees related to uninsured employer claims, benefit advances or fees related to disputed medical payments are not included.

Settlement Attorney Fees
By Fiscal Year

	FY99	FY00	FY01	FY02	FY03
Number of Settlement Petitions Processed	1,486	1,334	1,339	1,227	1,317
Claims Settled with Attorney Representation	708	678	715	682	645
Percent Claimants Represented by Attorney	48%	51%	53%	55%	49%
Total Settlement Amount With Attorney Involvement	$13,898,051	$14,169,102	$16,734,211	$17,551,999	$17,675,697
Total Attorney Fees	$2,490,854	$2,620,749	$3,028,678	$3,183,270	$3,166,382
Percent Fees to Settlement	17.9%	18.5%	18.1%	18.1%	17.9%

- Similar to reports issued in previous years, there are a small percentage of records for which no attorney fees were listed due to entry errors and/or reporting limitations.
- The information provided reflects settlements only and does not include occupational disease settlements, advances, fees associated with biweekly compensation benefits, disputed medical benefits, court awarded fees or amounts from lump sum payments not resulting in settlements.
- Total net settlement amounts included in the list are approximations. The settlement amounts do not include annuities.

Approved Attorney Fee Agreements
By Fiscal Year of Approval

FY99	FY00	FY01	FY02	FY03
1,124	1,107	1,203	958	817

Note: Previous fiscal year information has been updated.

Rehabilitation

The best possible outcome after an injury is for the injured worker to return to work. Sometimes a disabled worker needs help to become employable. The expense of vocational rehabilitation pays off when the worker becomes as productive and self-sufficient as possible.

Rehabilitation benefits are paid bi-weekly while completing the rehabilitation plan. Benefits are 66⅔% of wages received at the time of the injury, not to exceed the state's average weekly wage. A disabled worker may also receive monies for tuition, fees, books and other reasonable and necessary retraining expenses.

The worker's rehabilitation plan must be started within 78 weeks of reaching maximum medical improvement (MMI), must be completed within 26 weeks of the completion date specified in the plan. In addition, the insurer may pay auxiliary benefits up to $4,000 for reasonable travel and relocation expenses.

Rehabilitation benefits are provided to claimants under certain circumstances. Disabled workers are eligible when:

- Permanent impairment established by objective medical findings, that resulted from a work related injury and precludes the injured worker from returning to the job at the time of injury or a job with similar physical requirements; and
- Actual wage loss; or
- Medical impairment of at least 15% established by objective medical findings and no wage loss.

The injured worker must have reasonable vocational goals and re-employment opportunities that will likely reduce the wage loss and have a rehabilitation plan agreed upon with the insurer.

Vocational Rehabilitation Benefits Paid
By Plan Type[1] and Fiscal Year

Plan Type[1]	FY99	FY00	FY01	FY02	FY03
Plan 1	$169,077	$150,362	$50,713	$40,323	$5,558
Plan 2	$654,592	$715,659	$521,607	$415,531	$96,111
Plan 3	$1,344,901	$1,003,366	$657,233	$567,568	$147,135
Total	***$2,168,570***	***$1,869,387***	***$1,229,553***	***$1,023,422***	***$248,804***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

Dispute Resolution

- *Occupational Disease Evaluations*
- *Mediation*
- *Contested Case Hearings*
- *Workers' Compensation Court*

Occupational Disease Evaluations

The Workers' Compensation Claims Assistance Bureau of the Employment Relations Division is responsible for the occupational disease (OD) evaluation process. The process is used to determine whether a claimant's condition is a result of the employment and to determine compensability of claims under the OD statutes when an insurer has not accepted liability for the claim.

The process requires the claimant to attend a medical evaluation directed by the Department. The medical evaluator submits a report of findings to the Department. A copy of the report is then sent to the claimant and the insurer. Upon receipt of the report, if a dispute exists over initial compensability as an OD, it is a dispute that after mediation is subject to the jurisdiction of the Workers' Compensation Court.

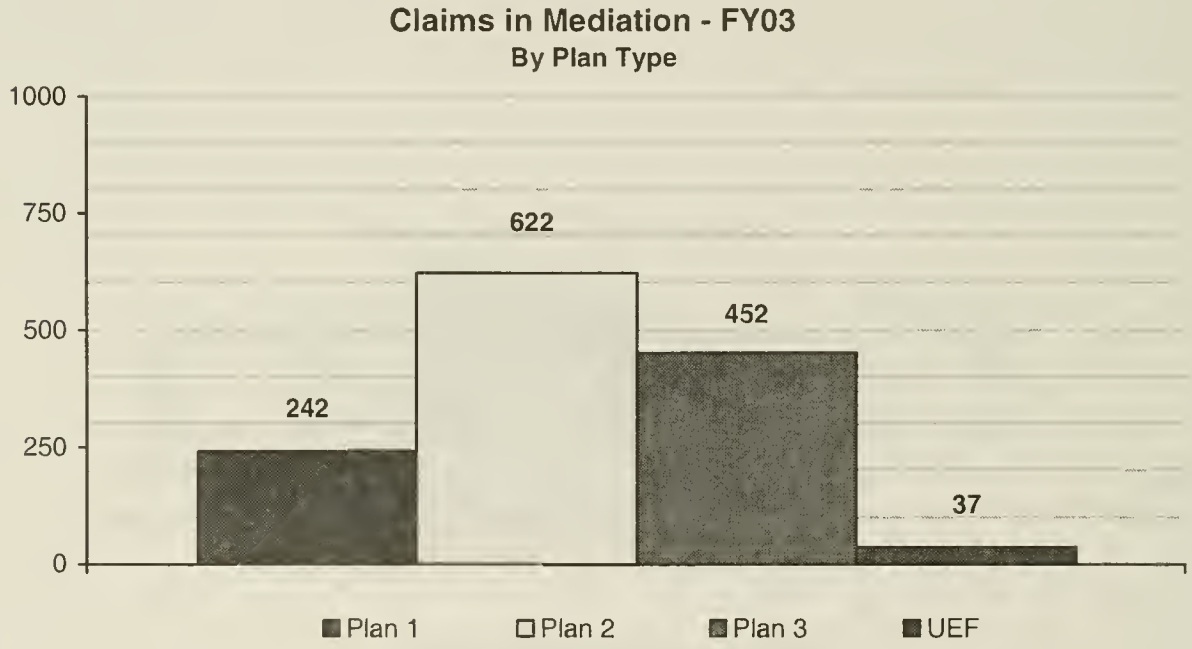
Occupational Disease Cases
By Plan Type[1] and Fiscal Year

Plan Types	FY00	FY01	FY02	FY03
Plan 1	47	40	29	30
Plan 2	86	82	63	64
Plan 3	58	45	81	96
Total	***191***	***167***	***173***	***190***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

Mediation

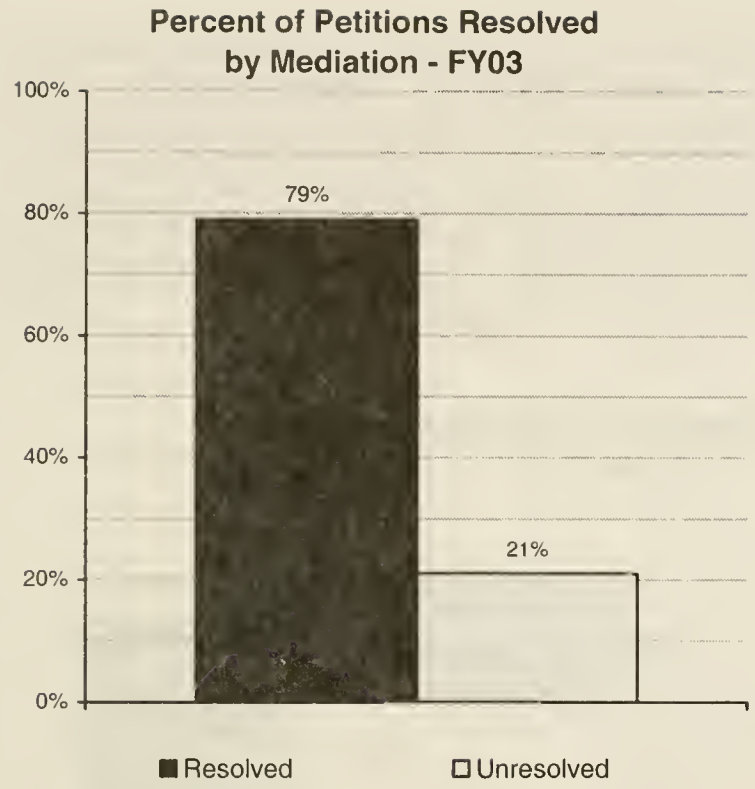
The Workers' Compensation Mediation Unit of the Employment Relations Division provides a mandatory process for resolving disputes dealing with benefits for both occupational injury and occupational disease claims. The mediation process is confidential, non-binding and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are held either in person in Helena or by telephone conference. Often more than one conference is held in order to resolve the disputes on a claim. In FY03, the Mediation Unit received and processed 1,232 petitions, which involved 1,353 claims. A petition is a request for mediation and may include multiple claims.



Claims in Mediation
By Plan Type[1] and Fiscal Year

	FY99		FY00		FY01		FY02		FY03	
Plan Types	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan1	183	15%	201	15%	228	17%	249	18%	242	18%
Plan 2	463	39%	602	46%	650	49%	680	49%	622	46%
Plan 3	515	43%	470	36%	427	32%	443	32%	452	33%
UEF	26	2%	28	2%	29	2%	26	2%	37	3%
Totals[2]	***1,187***	***100%***	***1,301***	***100%***	***1,334***	***100%***	***1,398***	***100%***	***1,353***	***100%***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund and UEF – Uninsured Employers Fund
[2]Total count represents number of claims not number of petitions and updated from previous years reports.



- Over the past five years Mediation has had an average resolution rate of 80%.
- From the date of the petition receipt to issuing a written recommendation, the average completion time for mediation was 36 days in FY03.

Petitions[1] Received by Mediation
By Fiscal Year

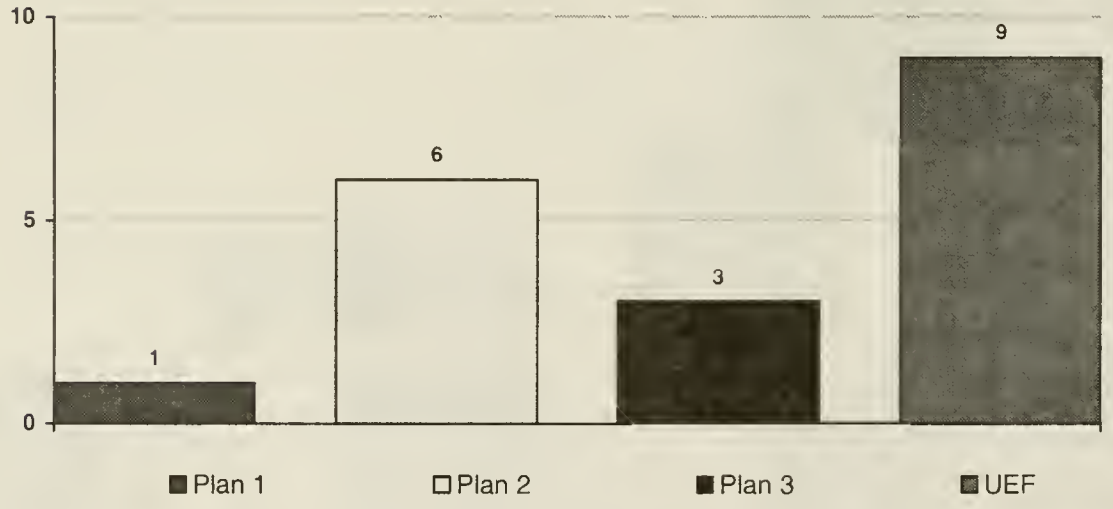
Petitions Received	FY99		FY00		FY01		FY02		FY03	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Pending[2]	2	1%	4	1%	2	1%	14	1%	122	10%
Closed	1,089	99%	1,164	99%	1,193	99%	1,246	99%	1,110	90%
Total Petitions Received	***1,091***	***100%***	***1,168***	***100%***	***1,195***	***100%***	***1,260***	***100%***	***1,232***	***100%***
Resolved	901	83%	941	81%	964	81%	963	77%	873	79%
Unresolved	188	17%	223	19%	229	19%	283	23%	237	21%
Total Petitions Closed	***1,089***	***100%***	***1,164***	***100%***	***1,193***	***100%***	***1,246***	***100%***	***1,110***	***100%***

Notes:
[1]A single petition may include multiple claims and/or multiple insurers.
[2]Eventual outcome of pending petitions will affect percent resolved.

Contested Case Hearings

The Department of Labor and Industry's Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by the Employment Relations Division, assessments of penalties for uninsured employers, medical disputes between providers and insurers when payments to the claimant are not an issue and regulation of attorney fees. The numbers of cases being heard by the Hearings Bureau has been declining since FY98, when the Legislature transferred responsibility for hearing occupational disease claims to the Workers' Compensation Court. In FY03, the Hearings Bureau received 19 new requests for contested case hearings.

Petitions Received by the Hearings Bureau- FY03
By Plan Type[1]



Petitions Received by the Hearings Bureau
By Plan Type[1] and Fiscal Year

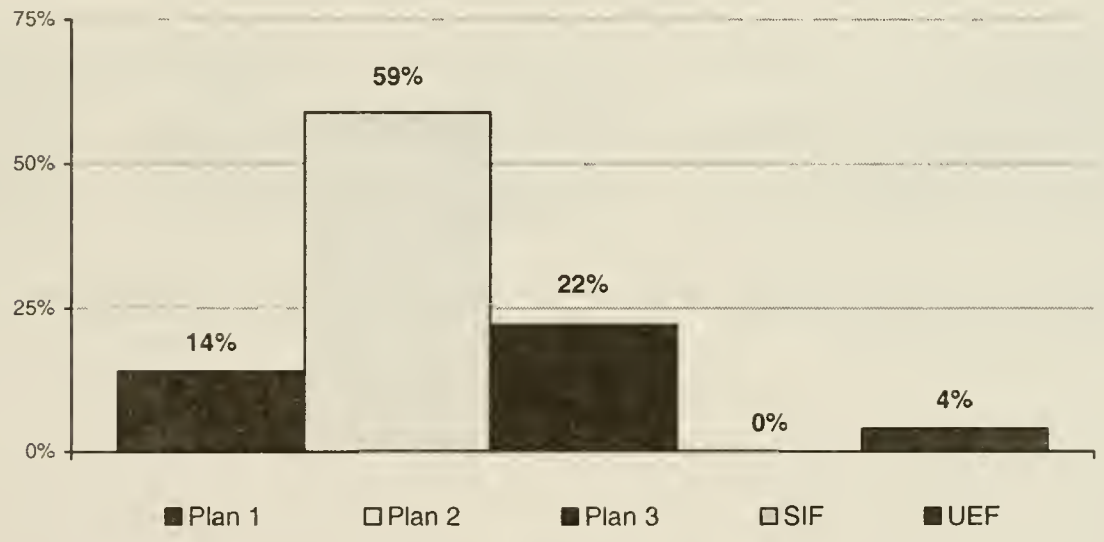
	FY99		FY00		FY01		FY02		FY03	
Plan Types	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	16	23%	5	16%	0	0%	0	0%	1	5%
Plan 2	21	30%	14	45%	12	63%	7	44%	6	32%
Plan 3	14	20%	6	19%	1	5%	2	13%	3	16%
UEF	18	26%	6	19%	6	32%	6	38%	9	47%
PEO	N/A	N/A	N/A	N/A	N/A	N/A	1	6%	N/A	N/A
Total[2]	*69*	*100%*	*31*	*100%*	*19*	*100%*	*16*	*100%*	*19*	*100%*

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, UEF – Uninsured Employers Fund and PEO – Professional Employer Organization.
[2]Columns may not sum to 100% due to rounding.

Workers' Compensation Court

The Workers' Compensation Court (WCC) resolves disputes between insurers or employers and workers disabled as a result of occupational injuries or diseases. The Court has original jurisdiction over benefit issues arising under the Workers' Compensation Act and the Occupational Disease Act. For an injury occurring after 07-01-1987, disputes must first be mediated. The Court's exclusive jurisdiction also extends to disputes involving independent contractor exemptions under both the Workers' Compensation and Unemployment Insurance Acts, enforcement of the Department of Labor and Industry's subpoenas, civil penalties for violations of workers' compensation provisions and the two-year return to work preference specified in section 39-71-317(2), MCA.

Percent of Petitions Received by the WCC - FY03
By Plan Type[1]



Petitions Received by the WCC
By Plan Type[1] and Fiscal Year

	FY99		FY00		FY01		FY02		FY03	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	18	7%	23	9%	14	6%	29	12%	34	14%
Plan 2	136	50%	118	45%	144	60%	140	56%	139	59%
Plan 3	95	35%	86	33%	65	27%	62	25%	53	22%
SIF	0	0	0	0	1	0%	1	0%	1	0%
UEF	21	8%	34	13%	15	6%	16	6%	9	4%
Total by Plan[2]	*270*	*100%*	*261*	*100%*	*239*	*99%[3]*	*248*	*100%*	*236*	*100%*
Total	*266*	*100%*	*255*	*100%*	*228*	*99%[3]*	*243*	*100%*	*229*	*100%*

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund
[2]Petitions may involve more than one plan type.
[3]Columns may not sum 100% due to rounding.

Decisions by the WCC
By Fiscal Year

Decisions	FY99	FY00	FY01	FY02	FY03
Telephone Conference Resulting in Disposition	0	0	0	3	0
Bench Rulings without Written Decisions	3	1	3	2	0
Decisions	61	66	90	103	145
Orders on Appeal	4	8	0	4	0
Substantive Orders	22	36	64	26	32
Attorney Fee Orders	2	1	7	0	5
Orders on Cost	13	5	4	14	15
Disposed of by Telephonic Conference	0	0	0	2	0
Subtotals	105	117	167	152	197
Petitions Dismissed by Agreement	157	175	136	118	72
Totals	***262***	***292***	***303***	***270***	***269***

Full and Final Compromise Settlements by the WCC
By Plan Type[1] and Fiscal Year

Plan Type	FY99	FY00	FY01	FY02	FY03
Plan 1 Self–Insured	12	11	5	5	5
Plan 2 Private Insurers	27	18	23	16	12
Plan 3 State Compensation Ins. Fund	56	47	41	24	24
Plan 4 Subsequent Injury Fund	0	0	0	0	0
Plan 5 Uninsured Employers Fund	0	0	0	0	0
Total	***95***	***76***	***69***	***45***	***41***

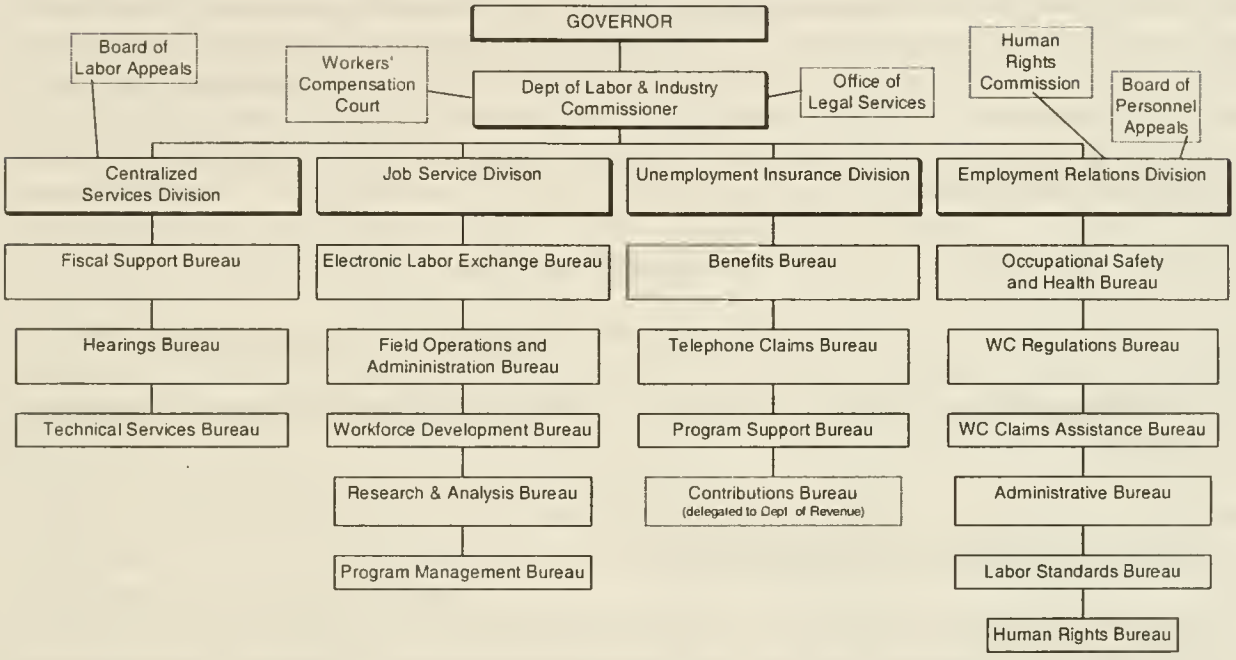
Note:
[1]Plan types: Plan 1 – Self-insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund

Department Administered Programs

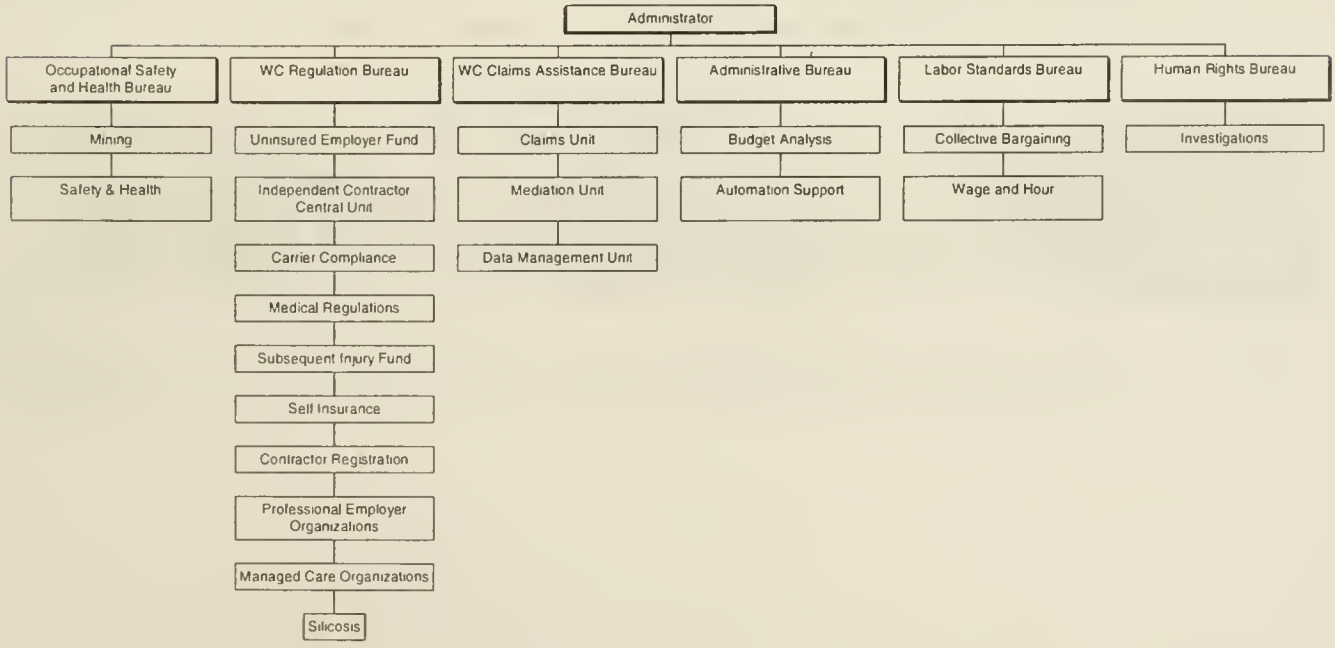
- *Organizational Charts*
- *Regulatory Assessments*
- *Subsequent Injury Fund*
- *Uninsured Employers' Fund*
- *Occupational Safety & Health*
- *Independent Contractor Exemptions*
- *Professional Employer Organizations*

Organizational Charts

Montana Department of Labor & Industry



Montana Department of Labor & Industry
Employment Relations Division



Regulatory Assessments

The administration of the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment to Plan 1 (self insured employers), Plan 2 (private insurance carriers), and Plan 3 (Montana State Fund). Section 39-71-201, MCA, requires the administrative assessment to be three percent of benefits paid during the preceding calendar year for injuries covered under the Workers' Compensation Act and the Occupational Disease Act, without regard to the application of any deductible, whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of $200,000 per occurrence, which are exempt from the assessment).

Regulatory functions performed by the Department of Labor and Industry

- Legal functions of the Workers' Compensation Court and the Hearings and Legal Bureaus;
- Administration of the Employment Relations Division, including the Workers' Compensation Database;
- Claims management, data analysis, rehabilitation panels, mediation and administration functions of the Claims Assistance Bureau;
- Medical regulation, self-insurance, carrier compliance, Professional Employer Organizations, Managed Care Organizations and administration functions of the Workers' Compensation Regulation Bureau; and
- Occupational safety statistics, mandatory inspections, on-site consultation grant match, mining inspection, mine training grant match and safety culture functions of the Occupational Safety and Health Bureau.

Regulatory Assessments
By Fiscal Year

FY99	FY00	FY01	FY02	FY03
$3,963,315	$4,070,937	$3,950,660	$4,387,058	$4,512,300

Subsequent Injury Fund

The Subsequent Injury Fund (SIF) was established by legislation passed in 1973. The purpose of the SIF is to assist individuals with impairments to obtain employment by offering a financial incentive to employers for hiring SIF-certified individuals. Many states have similar funds called either subsequent or second injury funds. Montana's program is funded through an annual assessment on Plan 1 employers and an assessment surcharge against policyholders insured under Plan 2 and Plan 3.

The law defines "person with a disability" as a person who has a medically certifiable permanent impairment that is a substantial obstacle to obtaining employment or re-employment. Also taken into account are such factors as the person's age, education, training, experience and employment rejections.

The SIF program reduces the liability of the employer by placing a limit on the amount an employer, or the employer's insurer, will have to pay if the worker becomes injured or re-injured on the job. When that limit is reached, SIF assumes liability for the claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation and Occupational Disease Acts.

There were 194 new SIF certifications during FY03 bringing the total to 3,229 SIF certified individuals in the state of Montana.

The assessment surcharge is based on a percentage of the compensation and medical benefits paid in Montana by each insurance plan in the preceding calendar year. The rate is set by the Employment Relations Division based on the total amount of paid losses reimbursed by the fund in the preceding calendar year and the expenses of administration, less other income.

SIF Payments and Dollars Assessed[2]
By Plan Type[1] and Fiscal Year

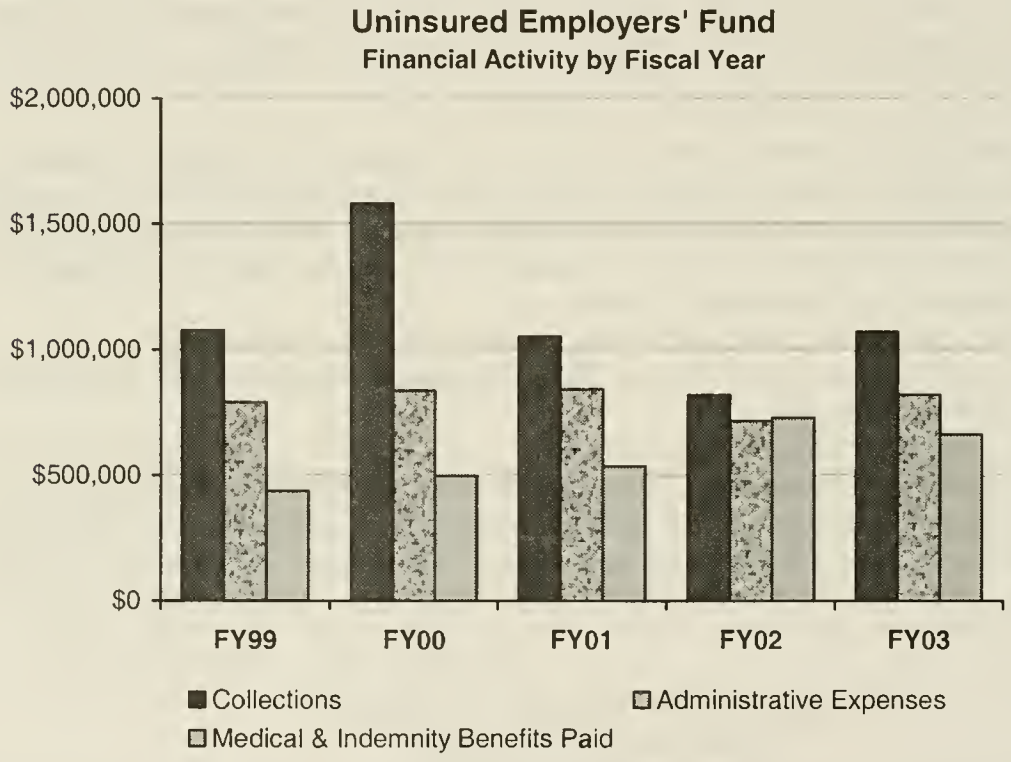
	FY99		FY00		FY01		FY02		FY03	
Plan Type[1]	Payments CY97	Assessment FY99	Payments CY98	Assessment FY00	Payments CY99	Assessment FY01	Payments CY00	Assessment FY02	Payments CY01	Assessment FY03
Plan 1	$49,938	$6,134	$134,228	$19,804	$42,200	$0	$18,819	$0	$180,361	$99,700
Plan 2	$74,675	$11,425	$101,196	$102,699	$16,195	$0	$9,580	$0	$43,294	$19,854
Plan 3	$112,575	$20,399	$0	$22,524	$549	$0	$170	$0	$12,461	$381
Total	***$237,188***	***$37,958***	***$235,424***	***$145,027***	***$58,944***	***$0***	***$28,569***	***$0***	***$236,116***	***$119,935***

Note:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund
[2]An adjustment has been made from the prior years report to reflect the appropriate calendar year payments and fiscal year assessments.

Uninsured Employers' Fund

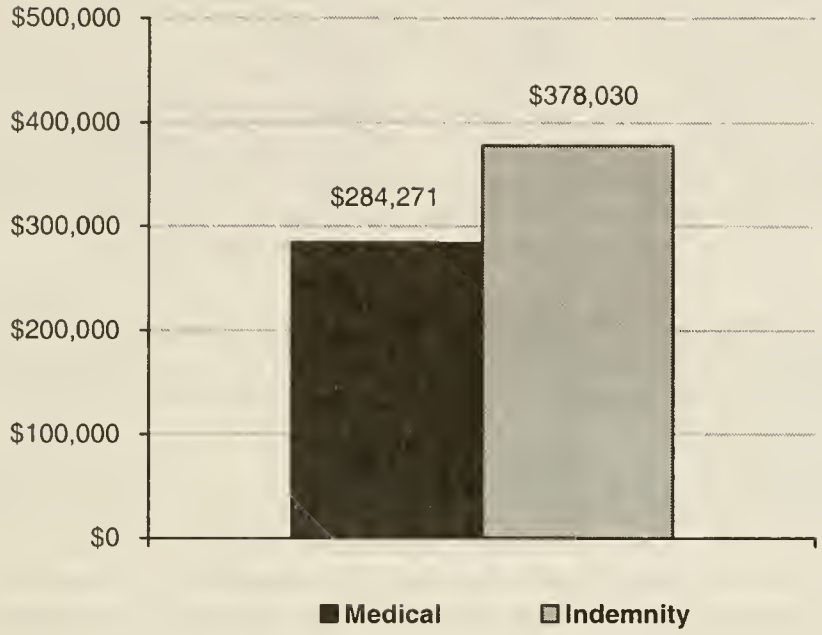
The role of the Uninsured Employers' Fund (UEF) is to provide benefits to employees injured on the job while working for an uninsured employer. Another prime concern of the UEF is to ensure employers comply with workers' compensation laws so employees are properly covered.

The UEF Unit also levies and collects penalties for the time the employer was uninsured. They may require the uninsured employer to pay a penalty to the fund. Penalties can be double the insurance premium that would have been paid by the employer, or $200, whichever is greater.



Uninsured Employers' Fund
Financial Activity by Fiscal Year

	FY99	FY00	FY01	FY02	FY03
Collections	$1,077,146	$1,580,000	$1,051,941	$816,467	$1,071,012
Administrative Expenses	$790,077	$836,664	$842,702	$716,409	$820,898
Medical & Indemnity Benefits Paid	$436,992	$497,201	$535,027	$582,716	$662,301



UEF Medical and Indemnity Payments
By Fiscal Year

	FY99	FY00	FY01	FY02	FY03
Medical	$143,807	$168,534	$263,017	$258,505	$284,271
Indemnity	$293,185	$328,667	$272,010	$324,211	$378,030
Total	***$436,992***	***$497,201***	***$535,027***	***$582,716***	***$662,301***

The Uninsured Employers' Fund recorded claims from 73 workers who were injured in FY03 and whose employers were uninsured.

Occupational Safety & Health

The goal of the Occupational Safety and Health Bureau is to prevent employee illnesses and occupational injuries by enforcing the intent of the various Montana safety statutes and to support federally funded Occupational Safety and Health Administration (OSHA) voluntary programs in the private sector. This involves mandatory workplace safety inspections in coalmines, sand and gravel operations, and in public sector workplaces such as city, county, state governments and schools. Non-mining private sector employers are covered by federal OSHA requirements with regard to inspection activities. The ultimate goal of all activities of the Bureau is to reduce worker injuries and illnesses and lower workers' compensation premiums.

The Bureau inspects public workplaces and issues orders for correction of hazards to provide a safe and healthy work environment. Federal OSHA requirements preempt inspecting private places of business, but on-site consultations are available to private employers upon request, thanks to a grant from OSHA.

Mining inspections are conducted on surface and underground coalmines in addition to sand and gravel operations throughout the state. These mines are required to comply with safety and health standards in the mine safety statutes. The Bureau has no enforcement jurisdiction in metal/nonmetal mines, which fall under the auspices of the Federal Mine Safety and Health Administration (MSHA).

MSHA has provided the Bureau with a training grant to conduct safety training for employers and employees of small mines. Mine operators are assisted in developing acceptable training plans so that their employees recognize hazardous conditions in mining operations.

The Safety Culture Act, §39-71-1501, MCA, requires employers in Montana to implement an education-based safety program in each place of employment. Employers with more than five employees are also required to have active safety committees.

Occupational Safety & Health Activities - FY03

Occupational Safety & Health	Employer Sector									
	Public					*Private*				
	FY99	FY00	FY01	FY02	FY03	FY99	FY00	FY01	FY02	FY03
Mandatory Inspections Performed	243	250	341	223	239	--	--	--	--	--
On-site Inspection Performed	--	--	--	--	--	169	207	142	214	275
Requests for Technical Assistance	344	292	479	363	540	437	356	438	447	758
Formal Training Sessions Conducted	34	24	44	120*	48	34	61	45	153*	72
Workers Trained	757	572	1,048	811*	798	1,404	608	598	1097*	1,702

*These numbers have been updated from last year's annual report.

Mining Section	Coal					Sand & Gravel Operations				
	FY99	FY00	FY01	FY02	FY03	FY99	FY00	FY01	FY02	FY03
Inspections Performed	42	32	38	31	38	146	160	172	174	84
Mine Training Sessions Conducted	17	11	19	15	13	78	61	79	111	97
Workers Trained	770	156	302	497	200	844	864	1,436	1,512	1,679
Coal Mine Foreman Training Sessions Conducted	2	1	--	3	6	--	--	--	--	--
Coal Mine Foreman Trained	18	11	9	19	40	--	--	68	--	--

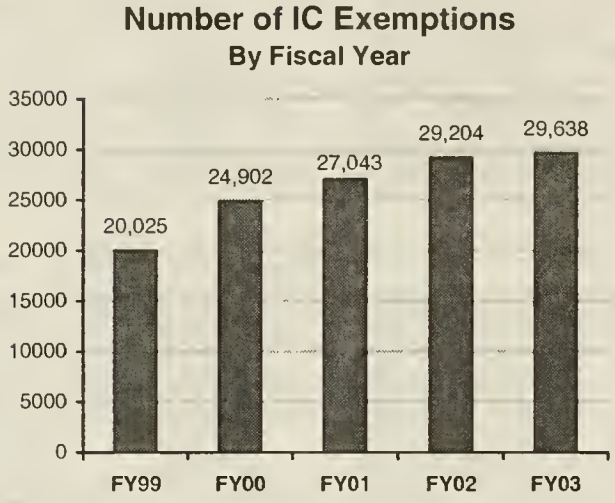
The Montana Department of Labor and Industry, Occupational Safety and Health Bureau, has established a schedule of training offered by its *Occupational Safety and Health Training Institute*. Traditionally the Bureau had offered training courses throughout Montana on a reactive basis. This caused scheduling problems, not only for the instructors, but also for those interested in being trained in the various OSHA standards. By setting places, dates and times of training opportunities, the employer and employee can plan schedules well in advance in order to attend. No tuition fee is charged for these courses.

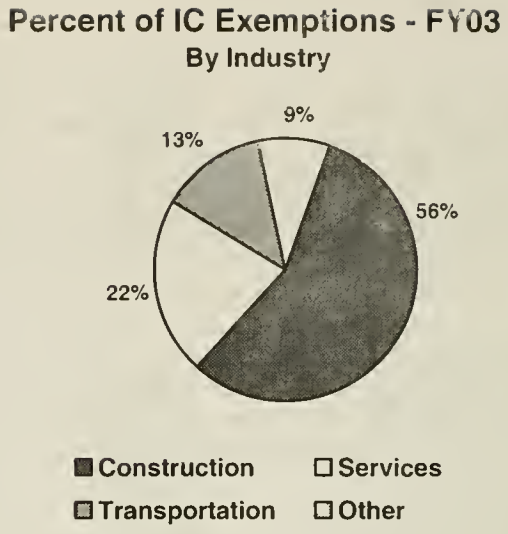
The *Institute* provides basic and advanced training courses in safety and health. Course subject matter includes hazard recognition, state and federal policies and standards and hazard abatement techniques. Courses are designed to build a more effective workforce and to aid in the professional development for Montana employers and employees.

The *Institute* maintains a record of courses successfully completed by each student. These records are useful to both the student and the employer in demonstrating the commitment to a safe and healthy workplace environment. Certificates are issued to those successfully completing the various courses.

Training Institute	FY03
Training Sessions	48
Workers Trained	798
Local Focus Groups	**FY03**
Training Sessions	72
Workers Trained	1,702

Independent Contractor Exemptions





Workers' compensation laws require individuals who hold themselves out as independent contractors to have workers' compensation insurance on themselves or obtain an Independent Contractor Exemption certificate. A sole proprietor, working member of a partnership, or a working member of a member-managed limited liability company may apply for the exemption. Corporate officers are considered employees of the corporation and do not qualify for the exemption, as well as managers of a manager-managed limited liability company.

Independent contractor exemptions are issued to individuals for a two-year period. The exemption identifies individuals who have informed the department they are independent contractors.

The department received 5,472 independent contractor exemption applications during FY03. There were a total of 29,638 active independent contractor exemptions.

The number of active independent contractors (ICs) has increased since the exemption was first enacted in 1983, although not significantly since last year. The majority of the exemptions continue to be in the construction industry (56%), the service industry (22%), and transportation (13%). In FY02, the construction industry held 50% of the exemptions, the service industry 20% and transportation 16%.

The department audits renewal applications. The audit process determines if the applicants have truly established a business. Applicants unable to show proof of business to the department are denied the IC exemption. In FY03, there were 1,707 audits resulting in 93% being approved for renewal. The audit requests the applicant to provide proof of tax filing as a business, proof of servicing more than one contract, proof of advertising and/or proof of insurance. They may provide any other information that verifies they are truly independent contractors. All applicants are aware when they sign the affidavit that they may be requested to provide this information.

The Montana Supreme Court has held that those who hire independent contractors have a responsibility to assure they are treating the individual as an independent contractor. This means the hiring agent must not exert control over the performance of the person's work other than to achieve a bargained for end result. In addition, they should assure the independent contractor is established in an independent occupation, trade or profession. Simply reporting the individual as an independent contractor and obtaining a copy of their exemption is not enough to protect them from liability under the Workers' Compensation and Occupational Disease Acts.

Senate Bill 270 (SB270) created a committee to review the independent contractor exemption issues that face Montana today. The committee's membership includes individuals from the business community, workers' compensation insurers, building contractors, labor organizations, and the Department of Labor & Industry. The primary question this committee is assigned to answer is, "How can we provide certainty to those who hire individuals as independent contractors that those individuals will not be considered employees, while at the same time assure that all employees are provided the protections they are entitled to under Montana law?"

For more information on independent contractors in Montana, visit the website at www.mtcontractor.com.

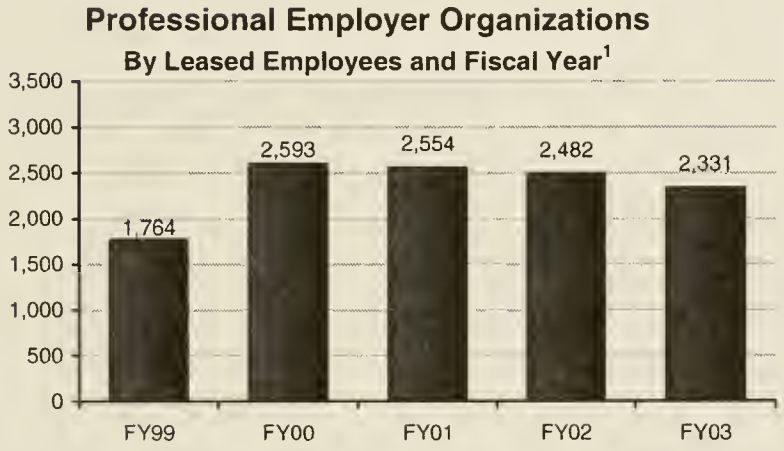
Professional Employer Organizations

Professional Employer Organizations (PEOs) are required to be licensed by the Department of Labor and Industry prior to operating in Montana. A PEO is a business that leases employees to other businesses, while managing the paperwork responsibilities associated with having employees. PEOs are the employer of record and are to pay employee wages, workers' compensation premiums, payroll-related taxes and employee benefits from their own account without regard to payments by the client. The client companies, in return, pay the PEO for employee costs plus an administrative fee. The client company is sometimes termed a co-employer. A client is a person who obtains all or a part of its workforce from another person through a professional employer arrangement.

In FY03 there were 24 licensed PEOs in Montana. A total of 274 client companies leased their workforce and 2,331 employees were leased from PEOs.

Professional Employer Organizations

By Number of Licenses and Fiscal Year



[1]Data Source: POINTS – (Process Oriented Integrated Tax System, Department of Revenue - Unemployment Insurance Division)

Appendices

- *Definitions*
- *Methodology*
- *Data Sources*
- *Future Annual Reports*
- *Internet Site*
- *Special Studies Available*

Definitions

Calendar Year: The year beginning January 1st and ending December 31st.

Cause of Injury Code: The code that corresponds to the cause of injury or occupational disease. The IAIABC (International Association of Industrial Accident Boards and Commissions) codes for cause are divided into nine categories. A tenth category, "Miscellaneous Causes" was created to account for the records that did not have a cause code entered or All Other Claims, NOC (Not Otherwise Classified).

Burn or Scald – Heat or Cold Exposure: Includes chemical, hot or cold objects, temperature extremes, fire or flame, steam or hot fluids, dust, gases, fumes or vapors, welding, radiation, abnormal air pressure and electrical current.
Caught In, Under or Between: Includes caught in or between machinery, an object being handled and miscellaneous objects such as earth slides or collapsing materials either man made or natural.
Cut, Puncture Scrape or Injured By: Includes punctures, cuts, or scrapes as a result of broken glass, hand tools, utensils, power tools or appliances.
Fall, Slip or Trip: Includes falling from a different level or on the same level, ladder or scaffolding falls, slipping on liquid or grease spills, fall into opening such as shafts, excavations or floor openings, stairs or slips on ice and snow.
Motor Vehicle: Includes crash of water vehicle, rail vehicle, collision with another vehicle or fixed object, rollovers, rough riding and airplane crashes.
Strain or Injury By: Includes continual noise, twisting, jumping, holding or carrying objects, lifting, pushing, pulling, reaching, and using tool or machinery, wielding or throwing and repetitive motion.
Striking Against or Stepping On: Includes moving machine parts, objects being lifted, sanding, scraping or cleaning operations, stationary objects and stepping on sharp objects.
Struck or Injured By – Includes Kicked, Stabbed, Bit, Etc: Includes falling or flying objects, hand tools or machines in use, co-workers, or patients, motor vehicles, moving machine parts and objects handled by others.
Rubbed or Abraded By: Includes repetitive motion such as callous, blister, etc.
Miscellaneous Causes: Includes absorption, injection or inhalation, foreign matter in eye, robbery or criminal assault, not otherwise classified (NOC); includes all records where cause was not reported on the First Report of Injury or where the code could not be converted to IAIABC codes.

Compensation Benefits: Any payment made directly to the worker (or the worker's beneficiaries) other than a medical benefit. The term includes payments made pursuant to a reservation of rights or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging.

Employment Relations Division (ERD): The State of Montana's regulatory agency for workers' compensation. This division is part of the Department of Labor and Industry.

Fiscal Year: The State of Montana's fiscal year begins July 1st and ends June 30th of the following year.

First Report of Injury and Occupational Disease (FROI): The initial report designed to notify parties of the occurrence of an injury or disease; contains basic claim information regarding the who, what and how of an occupational injury or disease.

Indemnity Payments: Payments made by the insurer to the injured worker to compensate for the loss of wages resulting from an injury or occupational disease.

International Association of Industrial Accident Boards and Commissions (IAIABC): An organization of workers' compensation specialists including government officials and regulators, business and labor leaders, medical providers, law firms, insurance carriers, and rehabilitation and safety experts. Through efforts that began independently, working groups worked jointly to recommend the collection of certain basic data elements in order to understand and monitor developments in the workers compensation arena. Standards have been developed for communicating data electronically through Electronic Data Interchange (EDI).

Montana Code Annotated (MCA): The definitive guide to Montana laws, consisting of the Constitution, codes and statutes. The Montana Code Annotated (MCA) is normally published each odd numbered year incorporating changes made by the Legislative Session of that year.

Nature of Injury Code: The code that corresponds to the nature of the injury or occupational disease. The IAIABC codes for nature are divided into eight categories. A ninth category "All Other Claims, NOC", was created to account for the records that did not have a nature code entered.

Sprain or Rupture: Includes strains, dislocations, hernias, organ ruptures and trauma to joints or muscles.
Bruise or Swelling: Includes contusions, broken blood vessels and inflammation.
Cut or Abrasion: Includes slivers, lodged small objects, open wounds, scrapes and needle sticks.
Fracture: Includes any breaking of a bone.
Occupational Disease: Includes repetitive motion, loss of hearing or sight, respiratory conditions, poisoning, mental disorders, radiation, heart disease, cancer, AIDS, carpal tunnel and any disease resulting from work related experiences.
Amputation: Includes loss of a limb that involves bone, loss of part of an organ, enucleation or severance of a body part.
Burn or Exposure: Includes electrical shocks, chemical burns, temperature extremes, freezing, sunburns, heat stroke and lightning.
Multiple Injuries
All Other Claims, NOC: Includes asphyxiation, loss of circulation, infection, concussion, heart problems, vision loss, hearing loss, poisoning, fainting, no physical or psychological injuries; includes all records where nature code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

Other Benefits Code: A code that identifies the type of other benefits paid to date or recovered for an injury or occupational disease. The following are IAIABC code definitions:

Funeral Expenses Paid to Date: Sum of the funeral expenses for this claim.

Insurers Legal Expense Paid to Date: Sum of the employer's legal expenses paid for this claim.

Total Payments to Physicians: Sum of services paid to physicians for this claim.

Hospital Costs Paid to Date: Sum of costs of both inpatient and outpatient services which the injured employee received because of the work related injury.

Other Medical Paid to Date: Sum of medical costs not included in payments to physicians or hospital costs, i.e. laboratory tests, prescriptions.

Vocational Rehabilitation Evaluation Expense Paid to Date: Sum of vocational rehabilitation evaluation services (testing and evaluating the claimant's ability, aptitude, or attitude in determining suitability for vocational rehabilitation or placement) for this claim.

Vocational Rehabilitation Education Paid to Date: Sum of vocational rehabilitation education payments (including tuition, books, tools, transportation and additional living expenses) for this claim.

Other Vocational Rehabilitation Education Paid to Date: Sum of vocational rehabilitation services not otherwise reported for this claim.

Consultant/Expert Witness Fees Paid to Date by Insurer: Sum of fees paid to expert witnesses (in a legal proceeding for expert testimony or opinion) for this claim.

Employer's Deductibles Recovery: Sum of monies recovered through Insured reimbursement of deductible amounts for this claim.

Subrogation Recovery: Sum of monies recovered through subrogation for this claim.

Overpayment Recovery: Sum of monies recovered due to overpayment of indemnity, medical or expenses for a claim.

Unspecified Recovery: Sum of monies recovered through salvage, apportionment/contribution, and all others not otherwise defined for a claim.

Part of Body Code: The code which correspond to the part of body to which the employee sustained injury or occupational disease. The IAIABC code definitions for part of body are divided into six categories. The additional categories of "Wrist", "Back" and "Knee" are reported to provide greater detail. A tenth category, "All Other Claims, NOC", was created to account for the records that did not have a part of body code entered.

Head: Includes multiple head injuries, skull, brain, ears, eyes, nose, teeth, mouth, soft tissue or facial bones.

Neck: Includes multiple neck injuries, vertebrae, disc, spinal cord, larynx, soft tissue or trachea.

Upper Extremities: Includes multiple upper extremities, upper arm, elbow, lower arm, wrist, hand, fingers, thumb and shoulders.

Wrist: Includes hand and wrist or just wrist injuries.

Trunk: Includes multiple trunk injuries, upper and lower back, disc, chest, sacrum and coccyx, pelvis, spinal cord, internal organs, heart, lungs, abdomen and buttocks.

Back: Includes the upper and lower back, disc, or lumbar and sacral vertebrae.

Lower Extremities: Includes multiple lower extremities, hip, upper leg, knee, lower leg, ankle, foot and toe.

Knee

Multiple Parts: Includes artificial appliances, multiple body parts or body systems.

All Other Claims, NOC: Includes all records where the part of body code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

Occupational Injury: A cut, fracture, sprain, amputation, or other physical harm, which results from a work accident on a single day or during a single work shift.

Occupational Disease (OD): Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion or overuse syndrome.

Permanent Partial Disability (PPD): Permanent impairment resulting from an injury, after achieving maximum medical improvement, that impairs the worker's ability to work and causes an actual wage loss. PPD benefits are calculated using 66⅔% of the wages received at the time of injury, not to exceed half the state's average weekly wage at the time of injury. Maximum length for PPD benefits is limited to 350 weeks.

Permanent Total Disability (PTD): A physical condition resulting from an injury or occupational disease, after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment. PTD benefits are calculated using 66⅔% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury. The injured worker may receive a maximum of 10 cost of living increases and PTD benefits until they are eligible for full social security retirement benefits.

Plan Type: The type of workers' compensation insurance coverage chosen by an employer. There are three different types of insurance plans:

> **Plan 1:** Self-insurance provided by employers who have sufficient financial strength to cover potential workers' compensation claims. If an injury occurs, a self-insured employer will pay the expenses and benefits.
> **Plan 2:** Insurance coverage provided by a private insurance company.
> **Plan 3:** Insurance coverage provided by the Montana State Compensation Insurance Fund (Montana State Fund).

Professional Employer Organizations (PEOs): Professional employer organizations provide human resource services for small to medium size businesses. Examples of services provided by PEOs are staffing, securing unemployment and workers' compensation insurance, and handling payroll taxes and medical benefits. PEOs must be licensed by the Department of Labor and Industry prior to supplying workers to client companies in Montana.

Standard Industrial Classification (SIC) Codes: Codes used to categorize employers by industry. The codes are published by the Federal Office of Management and Budget and can be found in the 1987 Standard Industrial Classification Manual. The codes are grouped into ten different industrial divisions, as listed below with examples of each division.

> **Agriculture, Forestry & Fishing (AFF):** Includes establishments primarily engaged in agricultural production, forestry, commercial fishing, hunting, trapping and related services.
> **Mining:** Includes all establishments engaged in the extraction of minerals occurring naturally, and also includes quarrying, well operations, milling, and other preparation

customarily done at the mine site, or as a part of mining activity. Exploration and development of mineral properties are included.

Construction: Includes establishments performing new work, additions, alterations, reconstruction, installations, and repairs. Three broad types of construction activity are covered: building construction by general contractors, heavy construction other than building by general contractors, and construction activity by other special trade contractors.

Manufacturing: Includes establishments engaged in the mechanical and chemical transformation of materials or substances into new products. These establishments are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of materials, such as lubricating oils, plastic resins or liquors.

Transportation, Communication, and Public Utilities (TCPU): Includes establishments providing to the general public, or to other business enterprises, passenger and freight transportation, communications services, or electricity, gas, steam, water, or sanitary services and all establishments of the United States Postal Service.

Wholesale Trade: Includes establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, farm, construction contractors, or professional business users, or to other wholesale; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

Retail Trade: Includes establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods.

Finance, Insurance and Real Estate (FIRE): Finance includes depository institutions, non-depository credit institutions, holding companies, other investment companies, brokers and dealers in securities and commodity contracts, and security and commodity exchanges. Insurance covers carriers of all types of insurance, and insurance agents and brokers. Real estate includes owners, lessors, lessees, buyers, sellers, agents, and developers of real estate. Establishments primarily engaged in the construction of buildings for sale are classified in Construction.

Services: Includes establishments primarily engaged in providing a wide variety of services for individuals, business or government establishments, and other organizations such as, hotels and other lodging places; establishments providing personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational institutions; and membership organizations.

Public Administration: Includes the executive, legislative, judicial, administrative and regulatory activities of federal, state and local governments.

Subsequent Report: A lost time report that gives indemnity information at specific intervals on an injured worker. The report gives the date benefit payments begin paid amounts by benefit type and case progress information.

Temporary Partial Disability (TPD): A physical condition resulting from an injury, prior to achieving maximum medical improvement that causes a partial loss of wages. TPD benefits are the difference between the injured worker's actual weekly wage and the actual weekly wage earned during the injured worker's temporary partial disability. TPD benefits are limited to a

total of 26 weeks, but the insurer may extend the period. They are subject to a maximum of 40 hours per week and capped at the injured worker's Temporary Total Disability rate.

Temporary Total Disability (TTD): A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a total loss of wages. TTD benefits are calculated using 66⅔% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury.

Methodology

Injury and Occupational Disease Data
The First Report of Injury and Occupational Disease is used to gather injury and occupational disease data. The form is completed and submitted to the Employment Relations Division (ERD) by employees, employers or insurers. The form includes mandatory fields on the worker, accident description, employer and insurer. Non-mandatory fields, such as gender, birth date and hire dates are often left blank. Limiting the number of mandatory fields was the balance achieved to ensure the value of the information was commensurate with the cost of collection. Because this report uses non-mandatory data, subcategories shown in the various tables may not add up to the total number of records because inaccurate or missing data were omitted.

This report includes all injuries and occupational diseases reported to ERD; however, all injuries and occupational diseases that occurred in Montana may not have been reported.

Year-to-Year Comparisons
Whenever possible, the data is presented with a comparison between FY99, FY00, FY01, FY02 and FY03.

Subsequent Report Data
The Subsequent Report form is completed for each individual indemnity claim and submitted to ERD by adjusters or insurers. The form includes fields such as claimant identification information, status of the claim, type of benefits paid, benefit payment amounts and duration of benefits.

The data includes information reported to ERD on injury and occupational disease indemnity claims. Subsequent Reports may not have been submitted to ERD for all indemnity claims.

Industry Divisions
To allow for comparison, whenever possible, the information is grouped by industry division. Standard Industrial Classification (SIC) Codes are used for this purpose. The SIC information is an optional field and may not be provided. Consequently, SIC Codes are missing in several places and are marked as "NOC - Not Otherwise Classified" on the graphs.

Data Sources

Department of Labor and Industry, Mediation Unit
The Mediation Unit of the DLI, Employment Relations Division provided mediation section data.

Department of Labor and Industry, Occupational Safety and Health Bureau
The Safety and Health Bureau of the Employment Relations Division provided safety section data.

Department of Labor and Industry, Workers' Compensation Regulation Bureau
The Workers' Compensation Regulation Bureau provided data for the following sections of the report: Plan 1 Gross Annual Payroll, Plan 2 and 3 premium dollars, Professional Employer Organizations (PEOs), Indemnity and Medical Benefits, Subsequent Injury Fund, and Managed Care Organizations (MCOs), Uninsured Employers' Fund (UEF) and Independent Contractor (IC) Exemptions.

Hearings Bureau
The Department of Labor and Industry, Hearings Bureau provided Contested Case Hearings data.

Regulatory Costs and Industrial Accident Rehabilitation Trust Fund Expenses
These costs were obtained from the state's Accounting, Budgeting and Human Resource System (SABHRS).

Workers' Compensation Court
Workers' Compensation Court data were provided by the Court, which is administratively attached to the Department of Labor and Industry.

Workers' Compensation Database
The database system was built at the request of the legislature to provide management information. Employers, insurers, attorneys, medical providers and other parties of the workers' compensation community in Montana provide data for the system. The Employment Relations Division maintains the database.

Future Annual Reports

If you have suggestions or comments about this annual report, please share them with us. We are most interested in discovering anything that will make this report more useful to Montanans in general and the workers' compensation system in particular. You may direct your comments to:

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Internet Site

This report and previous reports are available on the Internet at the following web site:
http://erd.dli.state.mt.us/wcclaims/wcchome.asp

Special Studies Available

- The Effect of Apportionment and Capping on Occupational Disease Claims – *A study requested by the Montana Department of Labor & Industry, Employment Division and conducted by Insurance Service Offices, Inc.*[1]

  This report is available on the Internet at the following web site:
  http://erd.dli.state.mt.us/wcclaims/wcchome.asp

- Attorney Fee Supplement to Settlement Attorney Fees[2]

  To request a copy of an Annual Report, special study or Attorney Fee Supplement, please contact:

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